

O43HSec1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 SECURITIES AND EXCHANGE
4 COMMISSION

Plaintiff,

5 v.

23 Civ. 1346 (JSR)

6 TERRAFORM LABS PTE LTD. , et
7 al.

8 Defendants

9 -----x

10 New York, N.Y.
11 April 3, 2024
12 12:15 p.m.

Before:

13 HON. JED S. RAKOFF

14 District Judge
15 -and a Jury-

16 APPEARANCES

17 UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Attorneys for Plaintiff

18 By: JAMES P. CONNOR
19 DEVON STAREN
20 CARINA CUELLAR
21 LAURA E. MEEHAN
22 CHRISTOPHER J. CARNEY
23 ROGER LANDSMAN
24
25

O43HSec1

APPEARANCES (Cont'd)

DENTONS US LLP

Attorneys for Defendant Terraform

BY: LOUIS A. PELLEGRINO III

DAVID KORNBLAU

MARK CALIFANO

DOUGLAS W. HENKIN

MATTHEW A. LAFFERMAN

AMIANNA STOVALL

ALYSSA LANDOW

MELISSA GOMEZ NELSON

KAPLAN HECKER & FINK LLP

Attorney for Defendant Kwon

BY: MICHAEL FERRARA

CHRISTOPHER MOREL

DAVID E. PATTON

ANDREW CHESLEY

SEAN HECKER

Also Present:

Shadow Haywood, SEC Trial Assistant

Armando Aquino, Defense Trial Assistant

O43HSec1

(Trial resumed; jury not present)

THE COURT: Please be seated.

All right. Let's talk about scheduling, and then we'll talk about summations.

I will have for you by sometime tomorrow morning my proposed charge and verdict form, but, of course, then we have to have a charging conference. If the evidence concludes by 3:30 on Thursday — we'll sit tomorrow from 9:30 to 3:30 — then we would have to have the charging conference tomorrow because summations would then be on Friday. If the evidence doesn't conclude, then we would have summations on Monday and then the charging conference on Friday, and we'd just give the jury Friday off or have them come in for whatever small amount of evidence still has to be and then excuse them. So it's largely in your hands, so to speak.

But here's the one unfortunate thing. Because I teach at Columbia Tuesday, Wednesday, and Thursday from 4:10 to 6:10, what I think we would have to do is either we could have the charging conference by telephone starting at about 6:20 on Thursday or we could all come back to the courtroom and have it at 7 o'clock, and either way we'd have to arrange for a court reporter. So that cuts a little bit in favor, perhaps, of having summations on Monday. On the other hand, it's not a matter I feel strongly about. It's really pretty much your collective call.

O43HSec1

1 In terms of summations, I thank both sides for their
2 letters, and I see that some judges do, apparently, ordinarily
3 allow rebuttals in cases like this, and I've even occasionally
4 had rebuttals, as my civil rules indicate. But I think, here,
5 what I'm always most concerned with is making sure that the
6 jury keeps their eye on the ball and is not confused, and I'm
7 attracted, therefore, to the notion that the — there would be
8 a joint defense summation from one attorney, as I understand
9 it, for 75 minutes, whereas the SEC would have its summation 90
10 minutes but without a rebuttal. And I think that will have a
11 tendency to clarify the issues for the jury.

12 Moreover, another element that enters into my thinking
13 is burden of proof. The reason, in my view, the law requires a
14 rebuttal in a criminal case is because the burden of proof on
15 the proponent is so high, proof beyond a reasonable doubt. In
16 some civil cases where the burden is clear and convincing
17 evidence, I can see the argument for rebuttal. I think the
18 argument is weaker where, as in this case, it's a preponderance
19 standard.

20 Now, the one thing that cuts the other way and has
21 made it a close call, in my mind, is that this is not as simple
22 a case as many routine commercial cases where I've had jury
23 trials. But, on the other hand, the complexities have been
24 very well voiced by both sides, and so I'll hear any further
25 argument anyone wants to make. At least as of now, I am

O43HSec1

1 leaning towards granting the defense proposal. So there would
2 be a single opening by the SEC for 90 minutes and a single —
3 excuse me, a closing by the SEC for 90 minutes and a single
4 closing by the defense for 75 minutes, but I'll hear anything
5 else anyone wants to say on that.

6 MR. CONNOR: Your Honor, we, of course, understand
7 your Honor's ruling. I guess our last pitch would be to do a
8 rebuttal that this is a unique case in that the defendant is
9 not here, and that sort of lends a lot of uncertainty into a
10 lot of the evidence. And what our concern is is that the
11 defense is going to get up in their, you know, rebuttal and,
12 due to all that uncertainty, may sort of — not intentionally,
13 but there may be some confusion on the jury's part, and we
14 believe it's very important that we have the opportunity to
15 clarify the issues.

16 THE COURT: Well, as I said, I think that the nature
17 of this case is what is the strongest argument on your side.

18 One thing I'll say, which I'm sure is already obvious,
19 if I go the way I'm indicating but defense counsel, in their
20 summation, says something that is totally unexpected or could
21 not be reasonably foreseen, then, of course, I would grant a
22 rebuttal limited to that. But I would grant that — I do in
23 every case when that happens. It's rare that that happens, but
24 sometimes it does.

25 Well, all right. I'll think about it one more time,

O43HSec1

1 but I think we need to resolve it by the end of today.

2 Anything else anyone wanted to raise? Yes.

3 MR. PATTON: Just on that point, your Honor, we don't
4 intend to discuss at all Mr. Kwon's lack of appearance.

5 THE COURT: No, but I think the point that the SEC is
6 making, which I thought about last night, is in some ways
7 they're somewhat handicapped, even on a preponderance standard,
8 by the fact that so many people took the Fifth. And so
9 evidence that they normally would have had, or at least
10 potentially could have had through depositions, they don't
11 have. But in the end, I'm still leaning the way I am, but I
12 will think about this one more time.

13 MR. CONNOR: Thank you, your Honor.

14 MR. PELLEGRINO: I'll just mention, from our
15 standpoint, your Honor, we feel equally constrained. We had
16 sought to take the deposition of CJ Han when it first became
17 available just before trial. We would have loved to have that
18 deposition. It didn't happen. We understand the Court's
19 ruling. But I think both sides have experienced some
20 difficulty and frustration with the number of parties who have
21 been overseas or unavailable, so we're in the same position,
22 your Honor.

23 MR. CONNOR: Your Honor —

24 THE COURT: Of course, I will give the jury my
25 standard instruction, as I do before openings, nothing that

O43HSec1

1 defense counsel says is evidence. It's just argument. But
2 maybe we should go further and say: Ladies and gentlemen, for
3 the next two hours you can just go to sleep, and then I'll give
4 you my charge.

5 Anyway, go ahead.

6 MR. CONNOR: I was just going to the final point. CJ
7 Han is their own employee, and so — and he's also under
8 criminal indictment in Korea on the Chai fraud, which is why
9 he's not here. I think that argument is maybe a little bit
10 much.

11 And then the final point, your Honor, just in
12 anticipation of the testimony today, we did have a motion *in*
13 *limine* to exclude Terraform's witnesses about testifying about
14 matters upon which they have no personal knowledge. Mr. Amani
15 was not at the company for any of the relevant events.
16 Mr. Schum, their second witness, was not at the company for any
17 of the relevant events, and Mr. Cantieri had a marginal
18 involvement in the relevant events.

19 And what we see happening here, your Honor, is they're
20 essentially bolstering the company and putting on completely
21 irrelevant testimony, trying to say that this is sort of a
22 relevant company or that this is somehow a legitimate company.
23 And as an example, your Honor, I'll give a demonstrative which
24 they have all the different supposed business lines that this
25 company is involved in, which is, of course, totally irrelevant

O43HSec1

1 to the case.

2 And so if this testimony's allowed in, the door is
3 wide open on Mr. Kwon. I mean, they are basically bolstering
4 this company when this company was run by someone who was on
5 the lamb for basically a year. So that is going to come out on
6 cross-examination, and, frankly, they've already opened the
7 door. So we are — it's our position we are entitled to ask
8 Mr. Amani that the reason he became CEO was that Mr. Kwon was
9 arrested and he was on the lamb, and that's why he became CEO.
10 They can't have it both ways here. They can't seek out and —
11 seek to exclude all this clearly relevant knowledge about
12 Mr. Kwon's character traits of truthfulness and then have their
13 witnesses get on the stand and talk about how great a company
14 Terraform was, which Mr. Amani's already done.

15 So we think that the door is wide open. We intend,
16 with the Court's permission, to ask Mr. Amani those sorts of
17 questions. But, of course, we wanted to flag it with the
18 Court.

19 MR. PELLEGRINO: Your Honor, first of all, that
20 argument has been waived. I mean, we've been having
21 discussions for two days with the Court about perspective
22 witnesses and when we might finish, and they have not until
23 just now sought to renew that motion and suggest that these
24 witnesses shouldn't be allowed to testify. We're halfway
25 through Mr. Amani's testimony.

O43HSec1

1 But specifically with regard to Mr. Amani, he's going
2 to talk very little about Do Kwon, if at all. There is a
3 conversation about how he gets hired. It's not going to his
4 credibility. He's not going to bolster Do Kwon. He's barely
5 even going to mention him. Towards the end, when we talk about
6 — and this is consistent with what your Honor allowed when
7 Mr. Curran talked about what happened after the 2022 depeg,
8 perhaps he would say something. I don't expect him to mention
9 Do Kwon, but you're going to hear very little about him. His
10 purpose is not to bolster Do Kwon.

11 Now, specifically about what he will testify about,
12 and we're about to get into that now. Yes, there's a
13 demonstrative. He talks about some products that ran on the
14 Terra blockchain. That's going to be super fast, your Honor.
15 We think the jury has heard that. There's going to be a couple
16 targeted questions, and then we're going to move on. We're not
17 going to belabor it.

18 And then as we have said in our motion *in limine*
19 consistently, Mr. Amani was a member of the community before he
20 was CEO. He bought UST and Luna. He was in the exact same
21 position that the investor witnesses were that they put on. He
22 saw the depeg happen. He doesn't know firsthand the inner
23 workings, but he saw it from the outside. He knew about the
24 proposals that were made after the depeg, and then he joined
25 the company. He also has firsthand knowledge about Mr. Curran

O43HSec1

1 leaving the company. These are all relevant topics. They've
2 opened the door to them. He's going to be brief on them.
3 We're going to move through them, and those are some of the
4 main things he's going to talk about, including concluding with
5 what he heard and saw after the 2022 depeg.

6 Mr. Curran testified that he wanted to refund amounts
7 to customers. He can talk about that. That's all firsthand,
8 602 knowledge, your Honor. He's going to go through that
9 quickly. And they should have raised that motion a long time
10 ago — renewed it, rather.

11 THE COURT: Well, I don't think they're untimely
12 raising as to anyone other than Mr. Amani, because the other
13 people haven't testified. With respect to Mr. Amani, they can
14 make objections, of course, as to relevance as he gives his
15 testimony. I'll rule on them individually.

16 On the question of whether the door has been opened as
17 to why Mr. Amani became — why there was a vacancy and
18 Mr. Amani assumed the position of CEO, I'm going to think about
19 that. I'm not saying yes or no yet.

20 MR. PELLEGRINO: He has not said anything about that,
21 and we do not intend to elicit that other than —

22 THE COURT: No, but the point is he's being, as he has
23 throughout this case because he sat at counsel table because he
24 was the corporate representative, he is being portrayed as, in
25 some sense, the company. And of course, he's now testified or

O43HSec1

1 will be testifying that — I think he already has — that he is
2 the CEO. And so I think how he became the CEO, it wasn't just
3 because he had an interest in cryptocurrency.

4 MR. PELLEGRINO: Well, the answer is, your Honor, it's
5 because Do stepped down. He could give that answer if he felt
6 compelled to give that. That's what happened, Do stepped down,
7 and he became the CEO. He has said nothing about Do's
8 credibility to bolster him in any way. That's not his purpose.
9 And we have not opened the door about why Do is where he is or
10 anything about these other charges.

11 THE COURT: I've leaned over backwards in favor of
12 Mr. Kwon. I have kept out his conviction, although there were
13 strong arguments for its admissibility. I've kept out his
14 flight, though there were strong arguments for a missing
15 witness instruction. But there certainly comes a point where
16 the jury is being misled into what was going on. But let me
17 think about it, and we'll see.

18 MR. PELLEGRINO: Your Honor, just to add one more
19 point, your Honor, as we've discussed before, they opened —
20 and I understand this is not evidence but the jury heard it —
21 on the fact that the company was a house of cards. That was
22 their opening. So they opened the door to that topic, and we
23 don't really intend to get into that other than to say there
24 are things still happening at the company; they sought to
25 remedy the situation. Really has nothing to do with Do.

O43HSec1

1 THE COURT: Fine. I'll think about it some more.

2 Let's bring in the — I'm sorry, there's something
3 else?

4 MR. CALIFANO: Your Honor, I just wanted to make sure
5 that the Court understood that Mr. Schum, who is a witness
6 who's going to testify after Mr. Amani, is somebody who was a
7 validator in the Terra blockchain ecosystem. So he can testify
8 to his firsthand knowledge about being a member of the
9 community and those things that were discussed in the community
10 in the proposals.

11 And there's another thing, your Honor, I think that's
12 important. Mr. Schum is also a member of the communications
13 group that Mr. Curran headed. Mr. Schum is aware, because
14 Mr. Curran talked to him, about the reasons he actually left
15 the company the first time. Those are the things that
16 Mr. Schum would testify about. All firsthand information, your
17 Honor. And the other thing is Mr. Schum will not testify in
18 any way about Mr. Kwon.

19 MR. CONNOR: Your Honor, if I could respond to that.
20 If Mr. Schum testifies, the door is absolutely wide open.
21 Mr. Schum gave interviews in which Do Kwon, while he was on the
22 lamb, while he was wanted by the Korean prosecutors, was
23 "actively involved in the day-to-day operation of the firm."
24 So if Mr. Schum is going to testify, the door is wide open to
25 us asking those questions. There's no way that we should be

O43HSec1

1 hamstrung. So if he takes the stand, we do intend to ask those
2 questions.

3 THE COURT: All right.

4 MR. CALIFANO: I apologize.

5 THE COURT: We're going to take a midafternoon break.
6 Let's get at least this witness finished. Let's bring in the
7 jury.

8 (Continued on next page)

O43HSec1

(Jury present)

MR. PATTON: Your Honor, we don't have to go into the details now, but we would just ask to be heard separately on behalf of Mr. Kwon if your Honor's revisiting this topic.

THE COURT: Sure. I just want to be absolutely sure I have the proposal on the summations. It will be one person for the defense, though collectively representing both defendants?

MR. PELLEGRINO: Correct, your Honor.

(Continued on next page)

O43HSec1

Amani - Direct

1 (Jury present)

2 THE COURT: Please be seated.

3 Good afternoon, ladies and gentlemen. I know you were
4 thrilled to come to court today in this beautiful weather.
5 But, on the other hand, now you get to avoid this weather for
6 the next few hours.

7 So let's get the witness back on the stand.

8 CHRIS AMANI, resumed.

9 DIRECT EXAMINATION

10 BY MR. PELLEGRINO:

11 Q. Good afternoon, Mr. Amani.

12 A. Good afternoon.

13 Q. We haven't spoken since your testimony, since you took the
14 stand yesterday?

15 A. That's right.

16 Q. And so on that note, I got a word from some people in the
17 back that they couldn't hear you well. I'm just going to ask
18 you to pull your microphone forward.

19 A. How's this?

20 Q. Good, I think. And if we could just speak slowly for the
21 court reporter, please.

22 All right. So I want to reorient you to where we
23 were. We were talking about social media yesterday. Do you
24 remember that?

25 A. I do.

O43HSec1

Amani - Direct

1 Q. OK. Just a few more questions on that, then we're going to
2 move on.

3 In one of your last answers yesterday, you mentioned
4 that social media could be argumentative. How so?

5 A. I think I was explaining this. Just the nature of crypto
6 is such that, you know, the participants have to take a lot of
7 responsibility for the assets that they hold and the protocols
8 that they interact with because there are a lot of risks,
9 whether it's losing the crypto equivalent of your password and
10 there's no "forgot password" button, or interacting with an
11 application like an Anchor protocol that's a smart contract.
12 There could be bugs in the smart contract. There could be
13 hacks.

14 And so, like I said, you have to do a lot of your own
15 research. You have to really dig in. And part of that is that
16 you expect that the teams that release those protocols are the
17 teams that are supporting the blockchain are going to be
18 available to you to answer your questions.

19 THE COURT: Well, I think — forgive me. I think I
20 need to instruct the jury in this regard because I don't want
21 them to be misprised.

22 The same laws that govern fraud in security cases
23 apply here, just as they would in other cases. There is no
24 special exception for the cryptocurrency market that says
25 investors have to do more research or have to exercise greater

O43HSec1

Amani - Direct

1 care than would be required from any reasonable investor with
2 any investment. It's the same. So I'm sure that wasn't the
3 suggestion being made, but I don't want there to be any
4 misunderstanding. The same disclosure obligations apply to the
5 offerers and the same responsibilities or non-responsibilities
6 apply to investors.

7 Go ahead.

8 MR. PELLEGRINO: OK.

9 Q. I want to turn to your interest in Terra, Mr. Amani.

10 Did there come a time when you began interacting in
11 person with members of Terraform?

12 A. I did, yes. I was invited to an event that Terra was
13 throwing in New York in September of 2021 and showed up to that
14 event and met some people that worked at Terraform Labs.

15 Q. And what came about from that event?

16 A. I just got more engaged in the community. I got to learn
17 more. I got to meet more people, people who were — like TFL
18 people who were community members who were using the protocol
19 and teams that were building on Terra.

20 Q. And did you have further interaction with Terraform
21 employees after that?

22 A. I did. I went to another event in Portugal where I ran
23 into a lot of those same employees again.

24 Q. Did there come a time when you had discussions about
25 actually going to work at Terraform?

O43HSec1

Amani - Direct

1 A. There was. So I remember specifically, because it was
2 Thanksgiving morning, I had seen an article that came out about
3 working at TFL, and it was employees kind of complaining about
4 how challenging it was to work there: long hours, heavy
5 demands, inconsistent compensation between individuals. And so
6 I got on Twitter. I had met Do previously. I don't think he
7 remembered who I was. I sent him a note: Building — building
8 great companies is hard. Let me know if you need help? And I
9 posted the link to that article, and I posted my LinkedIn
10 profile.

11 Q. And you mentioned about it being hard to work there. The
12 article had suggested something to that effect. Why would you
13 be interested in working in an environment like that?

14 A. Fast-growing startups are always hard to work at. They
15 always have those complications. So someone like me, with my
16 experience, it's my job to come in and fix those things. So I
17 saw an opportunity to join and help a company that I cared
18 about.

19 Q. Did there come a time when you were officially hired by
20 Terraform?

21 A. Yes, I joined in January of 2022.

22 Q. What was your title when you hired?

23 A. Head of operations.

24 Q. And what, if anything, were you hired to do as the head of
25 operations?

O43HSec1

Amani - Direct

1 A. Primarily to fix those problems that had been outlined in
2 the — in the article, among other things. I was responsible
3 for HR, ensuring clear communication, working with Do to
4 implement compensation policies that were fair. I worked with
5 the community as well. Since I was a part of the community, I
6 was hired to engage with the community and to try to grow —
7 grow community specifically in person, in-person events.

8 Q. Did you take any steps to improve the workplace along the
9 lines of what you were hired to do?

10 A. We did. We built out a human resources function. We did
11 employee surveys. We put together compensation, like a
12 compensation framework so that, when we brought people into the
13 company, we could slot them into, like, their specific roles
14 and would have consistent compensation across consistent roles.
15 All the things that you would see in like a larger company, we
16 needed to implement in TFL.

17 Q. About how many people were working at Terraform when you
18 started?

19 A. I don't know the exact number. Somewhere — I would say
20 somewhere in, like, the 60, 70 range.

21 Q. And were all these people located in the same place?

22 A. They were not.

23 Q. And how did they communicate with one another?

24 A. Just kind of like remote companies now: Google Meets,
25 email, Slack, Signal, Telegram. I think that was it.

O43HSec1

Amani - Direct

1 Q. Why did they communicate using those platforms?

2 A. Well, like, email and Slack are, like, standard platforms
3 used inside of a company. Telegram and Signal are applications
4 that are used a lot within crypto, so those were mostly used
5 when you were trying to communicate with, like, another team
6 outside of your company. Slack doesn't work really well for
7 that. So all of the teams — not all of the teams. A large
8 portion of the teams in crypto that we were partnering with
9 would have Telegram accounts as well and Signal accounts as
10 well, so we would use those for kind of like cross-company
11 communications.

12 MR. PELLEGRINO: I'm going to ask Mr. Aquino to pull
13 up what I think is going to be Defendants' Exhibit 1804, just
14 for the witness and for the parties. And, your Honor, this is
15 going to be a demonstrative, not an exhibit.

16 Q. Mr. Amani, can you see that on your screen?

17 A. Yes, I can.

18 Q. Just briefly, have you seen this document before?

19 A. I have.

20 Q. And briefly, just very high level, what is it?

21 A. Yeah. So it looks like it's a Terra blockchain in the
22 middle, and surrounding it are various, you know, applications
23 or protocols, partners of teams that had built on top of the
24 Terra blockchain and teams that had integrated into it.

25 Q. I'm going to pause you right there.

O43HSec1

Amani - Direct

1 Is it true and accurate?

2 A. It's a subset. It's a subset of the application — every
3 application on here was one that was integrated with the Terra
4 blockchain, but it doesn't have everything. There are many
5 more.

6 Q. Got it.

7 Your Honor, may we publish?

8 THE COURT: OK.

9 MR. PELLEGRINO: I'm sorry. I didn't hear. Was there
10 a response?

11 THE COURT: I'm sorry. I said yes.

12 MR. PELLEGRINO: Thank you, your Honor.

13 Could we publish that for the jury, please.

14 BY MR. PELLEGRINO:

15 Q. OK. So, just generally, at the top it says "Terra
16 Blockchain Ecosystem." Do you see that?

17 A. I do.

18 Q. What's the Terra blockchain ecosystem?

19 A. So the ecosystem — typically, when you refer to a crypto
20 ecosystem, you're talking about, like, the businesses that are
21 operating on that blockchain or integrated with that blockchain
22 or partnered with the applications that do build on that
23 blockchain. So think of this as like the — like the business
24 side of the blockchain versus, like, the community, which are
25 like the users.

O43HSec1

Amani - Direct

1 Q. OK. And what's at the center of the diagram?

2 A. It looks like the Terra blockchain.

3 Q. Have you heard the term "open source" before?

4 A. I have.

5 Q. What does that mean?

6 A. So open source refers to when an application's code is
7 public for anyone to see. There are different versions of it,
8 but, essentially, it means that, you know, anyone who wants to
9 look at the code that's being run for that software can inspect
10 it themselves or have someone that they trust inspect it for
11 them.

12 Q. Was the Terra blockchain open source?

13 A. Yes, it was.

14 Q. OK. And tell us again, not in detail but just
15 collectively, what are the logos around the center of the
16 diagram?

17 A. The logos represent —

18 MR. CONNOR: Relevance, your Honor.

19 THE COURT: Well, I'll allow a little bit into this
20 area, but I think it is not — it's only marginally connected
21 with the issues in the case, but I'll allow a little bit.

22 MR. PELLEGRINO: It's going to be brief, your Honor.
23 Thank you.

24 Q. Just quickly, what are those?

25 A. Yeah. The logos represent applications that were built on

O43HSec1

Amani - Direct

1 top of or integrated into the Terra blockchain.

2 Q. OK. And does Terra own or launch all of these
3 applications?

4 A. Terra launched some of them. A lot of them were launched
5 by third parties.

6 Q. OK. Does someone need permission to launch a product on
7 the Terra blockchain?

8 A. They do not.

9 Q. Why not?

10 A. Because it's permissionless. Anyone can launch an
11 application on the blockchain.

12 MR. PELLEGRINO: You can take that down, Mr. Aquino.

13 Q. Now, when people interact with these protocols, who are
14 they interacting with?

15 A. They're interacting with the protocol itself. So the
16 protocol is like this, for lack of a better term, this code
17 that runs — once it's been launched, this code runs
18 autonomously on the blockchain. So when you interact with
19 those applications, you're interacting with autonomous computer
20 code, essentially.

21 Q. If someone buys UST on an exchange, are they buying that
22 UST from Terraform Labs?

23 A. No.

24 Q. Someone deposits money into Anchor, are they depositing
25 money into Terraform Labs?

O43HSec1

Amani - Direct

1 A. No, they're depositing into the smart contract. It doesn't
2 go to Terraform Labs.

3 Q. Where does it go?

4 A. It just gets locked in the code, essentially, on the Terra
5 blockchain.

6 Q. Can Terraform Labs access that money?

7 A. No.

8 Q. Now, turning your attention to January 2022, what was your
9 job title at that time?

10 A. Head of operations.

11 Q. As head of operations, did human resources report to you in
12 that role?

13 A. Yes.

14 Q. What are the areas of focus of human resources?

15 A. Hiring, firing, performance reviews, compensation,
16 policies.

17 Q. Do you know Brian Curran?

18 A. Yes.

19 Q. Who was Brian Curran?

20 A. Brian Curran was at times while I was there the head of
21 communications.

22 Q. And did there come a time when Brian Curran left Terraform
23 for the first time?

24 A. Yes.

25 Q. Were you serving as head of operations when that happened?

O43HSec1

Amani - Direct

1 A. Yes.

2 Q. In that capacity, did you come to understand why Brian
3 Curran left the company? Just a yes or no.

4 A. Yes.

5 Q. How did you learn that information?

6 A. He told me.

7 Q. OK. And did he tell you directly?

8 A. Yes.

9 Q. What, if anything, did he tell you about why he left?

10 MR. CONNOR: Objection. Hearsay.

11 THE COURT: Sustained.

12 MR. PELLEGRINO: Your Honor, may we sidebar?

13 THE COURT: Sure.

14 (Continued on next page)

15

16

17

18

19

20

21

22

23

24

25

O43HSec1

Amani - Direct

(At sidebar)

MR. PELLEGRINO: Your Honor, their objection before was that he was not giving relevant testimony. This is directly relevant —

THE COURT: No, no, the objection now is hearsay.

MR. PELLEGRINO: Well, they've opened the door to it, so it's now material. I mean —

THE COURT: No, no, it's a statement being offered for its truth by an out-of-court witness.

MR. PELLEGRINO: It's not —

THE COURT: Now, did you — I don't recall — confront Mr. Curran with this statement? I don't think you did.

MR. CONNOR: No.

THE COURT: If you had, then it might come in under the discretionary exception for extrinsic impeachment, but since he wasn't confronted with this and didn't have the opportunity to admit or deny or otherwise explain the statement, it's classic hearsay. Sustained.

(Continued on next page)

O43HSec1

Amani - Direct

1 (In open court; jurors present)

2 BY MR. PELLEGRINO:

3 Q. Mr. Amani, did you own UST or Luna before you worked for
4 Terraform?

5 A. I did.

6 Q. And earlier we had discussed that you had researched Terra
7 for several years before joining the company, is that right?

8 A. About one year. I started researching in 2021 and then
9 joined right at the beginning of 2022.

10 Q. OK. In or around that time period, did you own UST or
11 Luna?

12 A. In 2021, I did.

13 Q. What information did you look at, if any, before purchasing
14 UST or Luna at that time?

15 A. You know, the website, the white papers, the YouTube videos
16 both by TFL and by others, podcasts with Do. Trying to think
17 if there's anything else. I was on Discord and Telegram, the
18 governance forums as well.

19 Q. Did you consider any risks when investing in UST or Luna?

20 A. I did.

21 Q. What are some of the risks you considered?

22 A. For UST the risk — yeah, like, the risk-reward or — the
23 risk-benefit of UST was always kind of the depeg risk, right?
24 When thinking about using a stablecoin, you have centralized
25 stablecoins that are backed by dollars in the bank, and they

O43HSec1

Amani - Direct

1 give you certain characteristics, like a better sense that it's
2 going to maintain the peg, but you lose the benefits of
3 decentralization. Evaluating the risks and benefits of UST was
4 about whether the decentralization benefits you were going to
5 get from UST outweighed the risk of the depeg.

6 Q. Now, do you know the term "use case"?

7 A. Yes.

8 Q. What does that mean?

9 A. It just means, like, from like a product application
10 perspective, like building products, it means, like, what
11 problem or what usage you expect the product to solve.

12 Q. And from your research, did you learn about any use cases
13 for the Terra blockchain?

14 A. Yes.

15 Q. What are some of those use cases?

16 A. Well, UST, first and foremost. When I was getting
17 involved, there was Anchor, Mirror, there was Kado. Kado would
18 allow you to buy things on Amazon using UST. There were
19 launchpads. There were money markets. It had, like, a full
20 suite of the typical applications you would find on a
21 blockchain.

22 Q. Did you ever buy anything with UST?

23 MR. CONNOR: Objection. Relevance. Lack of
24 foundation.

25 THE COURT: The objection on lack of foundation is

O43HSec1

Amani - Direct

1 denied. The objection on relevance is sustained.

2 Q. Did you have any personal knowledge as to whether Chai used
3 the Terra blockchain?

4 A. I don't.

5 Q. What was the status of Chai, the company, when you joined
6 Terraform?

7 MR. CONNOR: Objection. Lack of foundation.

8 THE COURT: I also don't even know what's meant by
9 "status" in the context of that particular question.
10 Sustained.

11 MR. PELLEGRINO: I'll rephrase, your Honor.

12 Q. When you joined the company, was Chai, the company, part of
13 Terraform, the company?

14 A. No.

15 Q. Are you aware of the event in May 2021 when UST lost its
16 peg?

17 A. I am.

18 Q. Do you have knowledge of the May 2021 depegging event?
19 Just yes or no?

20 A. Yes.

21 Q. What is the basis for your knowledge?

22 A. I was a user of Terra, and I was observing as a user.

23 Q. Was this before you worked for Terraform?

24 A. Yes.

25 Q. What did you observe as a user of Terra?

O43HSec1

Amani - Direct

1 A. I don't remember all of the particular details of what was
2 going on at the time, but a couple of things stand out in my
3 mind at the time. I wasn't deep into Terra. I wasn't deep
4 into the ecosystem. I was very curious about Terra based on
5 what I had learned, and so this was an interesting — I was
6 observing to see what would happen, if it would repeg. There
7 is that aspect of it. And then I remember the forum posts
8 after the depeg, looking at those at, like, how they were
9 attempting to, you know, change the parameters of the protocol
10 to make sure that it would function more efficiently in the
11 future.

12 Q. OK. Can you explain what the forum posts were?

13 A. Yeah. So Terra had a governance forum where anyone could
14 go post new ideas for discussion about how to make the
15 blockchain better. And so there was one particularly from Jump
16 Trading talking about how some of the parameters could be
17 changed to make the mint-burn mechanism — I believe it was the
18 mint-burn mechanism — work more effective and efficiently
19 during a depeg.

20 MR. PELLEGRINO: OK. I'm going to ask Mr. Aquino if
21 you would pull up Defendants' Exhibit 32, just for the witness
22 and the parties, please.

23 Q. Mr. Amani, can you see that?

24 A. Yes.

25 Q. Showing you what's been marked as Defendants' Exhibit 32

O43HSec1

Amani - Direct

1 for identification, do you recognize this?

2 A. I do. I remember seeing this around the time of the depeg.

3 Q. OK. And did you review it in or around that time?

4 A. Yes.

5 Q. Did you form an impression about the content of that
6 document at that time?

7 A. Yeah. At the time I had —

8 Q. Just yes or no.

9 A. Yes.

10 Q. And do you recall that impression as you sit here today?

11 A. Yes.

12 Q. And did the document cause you to take any further steps
13 regarding your understanding of UST?

14 A. Just led me to —

15 MR. CONNOR: Objection. Vague.

16 THE COURT: Sustained.

17 MR. PELLEGRINO: Your Honor, we offer Defendants'
18 Exhibit 32 for identification.

19 MR. CONNOR: Objection. Hearsay.

20 THE COURT: Sustained.

21 BY MR. PELLEGRINO:

22 Q. You mentioned the forums that were the basis of discussion
23 after the 2021 depeg.

24 A. Yes.

25 Q. Were there any propositions or proposals that were made

O43HSec1

Amani - Direct

1 that came out of those forums?

2 A. There was a lot of discussion on those forums.

3 Q. OK. Do you have an understanding of what governance
4 proposals are?

5 A. Yes.

6 Q. What are they?

7 A. A governance proposal is when some participant in the —
8 well, this is across multiple ecosystems. It's not specific to
9 Terra. But in this case, when a participant in the Terra
10 ecosystem has a proposal to change the parameters of the
11 blockchain or to spend money from the community pool — there
12 are a number of different things they can accomplish with this,
13 but I think, for this context, to change the parameters of the
14 blockchain, someone can, anyone can, if they put a deposit of
15 Luna down, submit a proposal for the ecosystem to vote on based
16 on their staked Luna.

17 Q. And did you observe in or participate in any of those
18 proposals after the May 2021 depeg?

19 A. I observed. I don't remember specifically if or which ones
20 I voted in.

21 Q. What proposals do you recall as you sit here today?

22 A. I mean, I remember — I remember the proposal that went on
23 the chain for — I think I remember the one that went on the
24 chain for that Jump Trading alteration of parameters.

25 Q. What would that proposal — or what was the intent of that

O43HSec1

Amani - Direct

1 proposal — or let me rephrase.

2 MR. CONNOR: Objection, your Honor. He's trying to
3 elicit the same testimony that your Honor sustained the
4 objections on.

5 MR. PELLEGRINO: I'm just asking his recollection,
6 your Honor, which he says he has.

7 THE COURT: No, no, the objection is you're asking him
8 now to describe someone else's intent. Sustained.

9 Q. Do you recall when UST's peg broke in 2022?

10 A. I do.

11 Q. What was your role at Terraform at that time?

12 A. I was still head of operations.

13 Q. How long had you worked at Terraform before the 2022 depeg
14 happened?

15 A. Right over five months.

16 Q. And do you recall what you were doing at the time of that
17 event?

18 A. Yeah. The event lasted a couple of days, I believe. I
19 don't remember the exact amount of time. A few days. I had
20 flown in to Singapore for a company executive team off-site
21 that I was planning, and so I was there in Singapore with a lot
22 of other people from our leadership team watching, essentially
23 watching with everyone else.

24 Q. Was there an effort by Terraform to defend the peg?

25 A. Yes.

O43HSec1

Amani - Direct

1 Q. What was that effort?

2 A. The primary effort was to deploy the LFG capital that had
3 been raised to defend the peg, and I believe TFL deployed a
4 portion of their own capital as well.

5 Q. And after the peg was lost, what happened next — excuse
6 me. Let me rephrase.

7 Did the peg ultimately fail?

8 A. The peg failed.

9 Q. After the peg failed, what happened next?

10 A. It was fortuitous that we had a lot of our team there in
11 one place. So we got in a conference room, and we were talking
12 to community members who had lost money, we were talking to
13 protocols that had built on Terra that were — that had lost
14 money and were worried about how they were going to survive,
15 and we started to evaluate plans for what we could do next
16 based on the feedback we were getting from the community and
17 the builders.

18 Q. Did Terraform lose money after this depeg event?

19 A. Yes.

20 Q. Approximately how much?

21 A. Hundreds of millions of dollars.

22 Q. And after the peg was lost, were there reserves left over?

23 A. There were.

24 Q. Did Terraform make a decision about what it should do with
25 these reserves?

O43HSec1

Amani - Direct

1 MR. CONNOR: Objection. Lack of foundation and
2 relevance.

3 THE COURT: Well, the objection for lack of foundation
4 is overruled. I'm not clear yet on what the relevance is. You
5 want a sidebar on that?

6 MR. PELLEGRINO: Please, your Honor.

7 THE COURT: All right.

8 I know you would have been really disappointed if we
9 didn't have another sidebar.

10 (Continued on next page)

O43HSec1

Amani - Direct

1 (At sidebar)

2 MR. PELLEGRINO: If you turn to the highlighted
3 portion, this is exactly the deal that was struck yesterday,
4 for lack of a better term. Sorry. It begins at 1114, your
5 Honor. It's highlighted. They asked to put on Mr. Curran's
6 testimony.

7 THE COURT: All right. Hang on.

8 MR. PELLEGRINO: Yes.

9 THE COURT: OK. The objection is overruled.

10 MR. PELLEGRINO: Thank you, your Honor.

11 MR. CONNOR: Thank you, your Honor.

12 (Continued on next page)

13
14
15
16
17
18
19
20
21
22
23
24
25

O43HSec1

Amani - Direct

1 (In open court; jurors present)

2 BY MR. PELLEGRINO:

3 Q. OK. Mr. Amani, my previous question related to whether
4 Terraform made a decision about what it should do with its
5 reserves, but let me ask you, first, do you have personal
6 knowledge of what it decided to do?

7 A. Yes.

8 Q. And what, if anything, did Terraform decide to do with its
9 reserves?

10 A. We evaluated a lot of different options. Ultimately, what
11 we decided to do was to give it to community vote to decide
12 what to do. So we put a proposal up on the governance forums
13 we discussed earlier asking the community, the people who had
14 lost money in UST and Luna, if they wanted us to try to
15 relaunch the chain without the stablecoin for their benefit.
16 And the idea — there was a lot of discussion on that. The
17 idea was that TFL had treasury left over. We could still
18 build. We still had a team, and we could give away all of the
19 tokens in the new chain to people who had lost money in UST or
20 in Luna and try to rebuild for their benefit.

21 Q. And just very briefly, what does it mean to put out a
22 governance proposal for a vote?

23 A. So two steps on that, I should be clear. One was to put a
24 proposal out for discussion. So there was a lot of debate —
25 it's all on the Internet now, a lot of debate about the

O43HSec1

Amani - Direct

1 parameters of what — how it should work. And then there's a
2 second step, which is to actually put it up for a vote, which
3 means, OK, discussion's been had. We feel like we have
4 consensus on this. And that's what I meant earlier when I said
5 put it on chain. That means it goes onto the chain, becomes,
6 like, official record, and everyone who held UST or Luna prior
7 to the depeg had an opportunity now to go vote on what TFL did
8 next.

9 Q. And what effect would the proposal have had if it was
10 adopted?

11 A. The effect would be —

12 MR. CONNOR: Calls for speculation.

13 THE COURT: Sustained.

14 Q. Do you have personal knowledge of what the proposal was?

15 A. Yeah, the proposal was to take, I believe it was, a hundred
16 billion — or a billion tokens, have them vest over the course
17 of a number of years, so meaning that people would be dropped
18 these tokens, they would vest over a number of years, and they
19 would be given to people who had — one bucket would be people
20 who had lost money on UST and Luna. Another bucket would be
21 going into the community pool, so that would be a pool of money
22 that the community, those same people, could control and they
23 could decide to give to other teams to help rebuild. Then
24 there's another bucket that went to a lot of the teams and
25 applications and businesses that were built around Terra that

O43HSec1

Amani - Direct

1 were struggling. They couldn't make payroll. They were having
2 all kinds of difficulty. We wanted to get tokens to them as
3 well so they could sustain their companies.

4 Q. How did the community vote on that proposal?

5 A. They voted — over 60 percent voted for the proposal. I
6 think only 12 percent voted against and the remaining
7 abstained.

8 Q. After that vote, what, if anything, did Terraform do?

9 A. We did exactly what the proposal said we would do, we
10 launched the new blockchain, and we gave away those tokens.

11 Q. And why did it do that? Why did Terraform do that?

12 A. Because we had this community that had believed in us, and
13 — and it failed. And we wanted to continue to work for them
14 on their behalf.

15 Q. Did you consider refunding people's money instead?

16 A. There were definitely conversations about that.

17 Q. Did you decide to do that?

18 A. We did not.

19 Q. Why not?

20 A. The community wasn't asking us to. And number two, a lot
21 of money was lost, right? And the amount of money we had left
22 in our treasury, like, if you try to split it up among every
23 single person who lost money, it was going to be like a
24 meaningless amount. And so that's why this — there was debate
25 about this in the community, in the community proposal that we

O43HSec1

Amani - Cross

1 put out, but, ultimately, the community felt it would be more
2 beneficial for them and we would have more success if TFL just
3 kept building, kept building useful products. They believed in
4 our mission.

5 Q. And what was the outcome of the option Terraform chose?

6 A. The outcome is TFL still — is still working to build for
7 those people today. We still have a community, they have their
8 tokens, and we continue on.

9 MR. PELLEGRINO: No further questions at this time,
10 your Honor.

11 THE COURT: Cross-examination.

12 CROSS-EXAMINATION

13 BY MR. CONNOR:

14 Q. Good morning, Mr. Amani. My name is James Connor, and I'm
15 an attorney with the Securities and Exchange Commission.

16 I want to start off by talking about your background
17 at Terraform Labs. You said this on direct, but you didn't
18 start at Terraform Labs until January of 2022, is that right?

19 A. That's right.

20 Q. And you also testified on direct about the circumstances
21 upon which you became the CEO. Do you recall that?

22 A. Yes.

23 Q. And you became the CEO in March of 2023. That's correct,
24 right?

25 A. I think that's right.

O43HSec1

Amani - Cross

1 Q. And before you were the CEO, Do Kwon was the CEO?

2 MR. PELLEGRINO: Objection, your Honor.

3 THE COURT: No, that I'll allow.

4 Q. Is that correct?

5 THE COURT: You may answer.

6 A. That's right, I took over from Do.

7 Q. And he's not the CEO any longer, but he is the 92 percent
8 owner of the company, right?

9 A. That's right.

10 Q. Now, Terraform's lawyer asked you questions on direct
11 examination. Do you recall that?

12 THE COURT: Just a second ago.

13 A. Yes, yes.

14 Q. And you met with Terraform's counsel before your testimony
15 today, right?

16 A. Yes.

17 Q. And you have a personal lawyer as well, correct?

18 A. I do.

19 Q. And Terraform Labs pays the fees for that personal lawyer?

20 MR. PELLEGRINO: Objection.

21 THE COURT: No, I think that's legitimate. You can
22 redirect on that, but I think that is a proper question.

23 A. They do.

24 Q. And I want to talk about some of the things that you spoke
25 about on direct about your knowledge.

O43HSec1

Amani - Cross

1 You were not at Terraform when UST's price dropped
2 below a dollar in May of 2021. That's correct, right?

3 A. That's right.

4 Q. And you've never had discussions with anyone at Terraform
5 regarding UST's drop in price in May of 2021, right?

6 A. That's right.

7 Q. And, in fact, you have no personal knowledge whatsoever
8 about how UST regained its \$1 peg in May of 2021, right?

9 A. Correct.

10 Q. As for Jump's role in the May 2021 depeg, the only
11 understanding you have is things you learned through
12 Terraform's lawyers, right?

13 A. I think that's right.

14 Q. And you talked about this on direct, but you had no
15 involvement whatsoever with Chai while you were at Terraform?

16 A. That's right.

17 Q. And your position, I think you said it was head of
18 operations?

19 A. Yeah, for a portion of the time.

20 Q. And you had no involvement whatsoever with Chai in that
21 role, right?

22 A. No.

23 Q. I want to now talk about how Terraform communicated with
24 the investing public about its crypto assets. I think you
25 talked about on direct that Terraform had social media

O43HSec1

Amani - Cross

1 accounts, is that right?

2 A. That's right.

3 Q. And Terraform communicated with the investing public about
4 its crypto assets regarding Anchor protocol, Luna, and UST,
5 right?

6 A. Yes.

7 Q. And about Chai, right?

8 A. Yes.

9 Q. And specifically, Terraform Labs communicated with the
10 public through Twitter, right?

11 A. That was the primary way, yeah.

12 Q. And Terraform Labs' Twitter account was Terra.money.
13 You're aware of that, correct?

14 A. Yeah, I think that's it.

15 Q. And so tweets that came from that address were tweets from
16 Terraform Labs, correct?

17 A. Yes.

18 Q. Terraform Labs also used Medium to communicate with the
19 public, right?

20 A. Correct.

21 Q. And Terraform would use Medium when the information that it
22 wanted to convey with the public was longer than it could
23 convey through Twitter, right?

24 A. That's right.

25 Q. And Terraform would also post information on its website,

O43HSec1

Amani - Cross

1 correct?

2 A. Yes.

3 Q. And when Terraform communicated with the public, it
4 understood it had an obligation to be truthful, correct?

5 A. Yes.

6 Q. Mr. Amani, you've been here for the entire trial, right?

7 A. With the exception of yesterday, yes.

8 Q. And so you've seen the testimony and you've seen the
9 exhibits, correct?

10 A. Yes.

11 Q. And you've heard testimony that was read into the record by
12 someone named Paul Kim. Do you recall that?

13 A. I do.

14 Q. And just so the record's clear, that person on the stand,
15 that was not Paul Kim, right?

16 A. That's right.

17 Q. That was a professional reader that Terraform hired, right?

18 MR. PELLEGRINO: Objection.

19 THE COURT: Overruled.

20 A. Yeah, I don't know if, like — I'm not trying to split
21 hairs. I don't know who, like, hired them, but I think they
22 were hired by our law firm.

23 Q. When you say "our law firm," you're referring to Dentons
24 law firm?

25 A. Yeah, I don't know who — I don't know who specifically

O43HSec1

Amani - Cross

1 hired them. But, yeah, we wanted someone to read, yes, I
2 believe.

3 THE COURT: Ladies and gentlemen, you should
4 understand that it is commonplace when a deposition is read to
5 have someone play the role of the witness and someone else play
6 the role of the questioner, and so forth, so that you can
7 distinguish between the questions asked and the answers given.
8 So that was all done with the permission of the Court.

9 Q. And as far as Mr. Kim, you've never met Mr. Kim in person,
10 right?

11 A. Not in person.

12 Q. And we've also heard about an individual named Jeff Kuan?

13 A. Yes.

14 Q. Do you recall that?

15 And Jeff Kuan had a pretty senior role at Terraform,
16 right?

17 A. He did.

18 Q. And like Mr. Kim, Jeff Kuan also has not appeared at the
19 trial, right?

20 A. That's right.

21 Q. Now, you were also in court when you heard the video
22 deposition of Ashwin Mathialagan. Do you recall that?

23 A. Yes.

24 Q. And you understand that he was the corporate designee of
25 Terraform Labs?

O43HSec1

Amani - Cross

1 A. Yes.

2 Q. And Mr. Mathialagan currently works at Terraform Labs right
3 now, right?

4 A. He does.

5 Q. And, in fact, he is one of only three directors of the
6 company, right?

7 A. Yes.

8 Q. And like Mr. Kim and like Mr. Kwon, he also didn't come to
9 the trial, right?

10 A. Right.

11 Q. And similarly, we heard the testimony read into the record
12 by Do Kwon. Do you recall that?

13 A. I do.

14 Q. And I think this is fairly obvious, but the person on the
15 stand, that was not Do Kwon, right?

16 A. That's right.

17 MR. PATTON: Your Honor, may we have a sidebar?

18 THE COURT: Why? Well, all right. Come on.

19 (Continued on next page)
20
21
22
23
24
25

O43HSec1

Amani - Cross

1 (At sidebar)

2 MR. PATTON: Thank you, your Honor. The previous line
3 of questioning with the other witnesses was —

4 THE COURT: I'm sorry?

5 MR. PATTON: The previous line of questioning with the
6 other people he was going through, Paul Kim, Jeff Kuan, led to
7 "and they didn't come here to testify, did they?"

8 THE COURT: And I'm sorry?

9 MR. PATTON: They didn't come here to testify.

10 THE COURT: Yeah.

11 MR. PATTON: And I think your Honor has already
12 instructed the jury on this topic, and I don't know whether you
13 plan to again, but that should be what they're told about this.
14 I don't think there should be any — any questioning that goes
15 into his —

16 THE COURT: So I understand that. I'm not sure why
17 you wanted — why you just didn't say objection, but —

18 MR. PATTON: Because there wasn't a question. I just
19 wanted to clarify before we got into the questions.

20 THE COURT: So do you want me to instruct the jury
21 that subpoenas are available, and so forth? No?

22 MR. PATTON: No, your Honor. I just wanted to make
23 sure we were not going to do the same thing that he had just
24 done with Paul Kim and Jeff Kuan about our client.

25 THE COURT: About?

O43HSec1

Amani - Cross

1 MR. PATTON: About Do Kwon.

2 MR. PELLEGRINO: Do Kwon.

3 THE COURT: Oh, I see.

4 MR. PATTON: I just wanted to head that off at the
5 pass.

6 THE COURT: I'm sorry. I misunderstood.

7 Are you planning to do that?

8 MR. CONNOR: No.

9 THE COURT: OK.

10 (Continued on next page)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

O43HSec1

Amani - Cross

(In open court; jurors present)

BY MR. PELLEGRINO:

Q. Mr. Amani, do you recall that you talked on direct examination about things that Terraform did in the wake of the May 2022 collapse? Do you recall?

A. Yes.

Q. And those were things that Terraform Labs, the company, did, right, that you talk about?

A. Yeah. I'm trying to think of any specifics, but generally, yes.

Q. You're aware of an entity called the Luna Foundation Guard?

A. Yes.

Q. That was an entity that was controlled by Terraform Labs, right?

A. I believe Terraform Labs had a service agreement with LFG to deploy capital on their behalf, but LFG also had a board.

Q. And Terraform Labs controlled the wallet addresses of Luna Foundation Guard, isn't that right?

MR. PELLEGRINO: Objection. Scope.

THE COURT: Overruled.

A. Can you say that again.

Q. Terraform Labs controlled the cryptocurrency wallet addresses for Luna Foundation Guard, right?

A. I believe so, yes.

Q. And you talked about on direct that, in crypto, who

O43HSec1

Amani - Cross

1 controls the keys is a very important consideration, right?

2 A. That's right.

3 Q. And for the Luna Foundation Guard, Terraform Labs
4 controlled the keys, right?

5 A. That's right.

6 Q. So, essentially, Terraform Labs controlled the money of
7 Luna Foundation Guard, right?

8 MR. PELLEGRINO: Objection.

9 THE COURT: Ground?

10 MR. PELLEGRINO: Relevance.

11 THE COURT: Overruled.

12 A. I think my understanding — and I don't have a perfect
13 understanding of this because I wasn't involved in any of this
14 — is that, yes, without a doubt TFL had the ability to send
15 money, like to move money, although I think there was also
16 conversations with the board members to get their approval
17 before doing so. So — but, yeah, go ahead.

18 Q. When you talked about — on direct when you were talking
19 about things that Terraform Labs did to — I think you used the
20 word "defend" the peg. Do you recall that?

21 A. Why.

22 Q. Those were — the moneys that were spent, Terraform Labs —
23 I think it was your testimony that Terraform Labs did that?

24 A. Yeah, that's true.

25 Q. And you held yourself out as a representative of the Luna

O43HSec1

Amani - Cross

1 Foundation Guard, right?

2 A. In what time period? When you say "you," do you mean me or
3 the company?

4 Q. Meaning you.

5 A. Oh, gosh. Maybe. I don't know. You might have to refresh
6 my memory on that.

7 Q. OK. I'm going to show you, just for the witness, what's
8 within marked as PX 579, and I'm going to refer you to the
9 third page.

10 Does that refresh your recollection as to whether you
11 held yourself out as a representative of the Luna Foundation
12 Guard?

13 A. Yeah, I think — yeah.

14 Q. So just apologies, I just want to make sure the record's
15 clear.

16 You did hold yourself out as a representative of the
17 Luna Foundation Guard, right?

18 A. I think I was, yeah, operating on behalf of TFL under the
19 service agreement for the LFG.

20 Q. But when you provided your contact information and your
21 email address, you put LFG.org in there, right?

22 A. Well, that's not my email address. That's an email address
23 for LFG. That's not my email address. I told them they should
24 email it to LFG.

25 Q. I want to now talk about how Terraform Labs makes money.

O43HSec1

Amani - Cross

1 I think you talked about — in your demonstrative you
2 had an icon on there about how the Terra blockchain was
3 launched in April of 2019.

4 A. Right, the icon at the center of the slides.

5 Q. And when this occurred, Terraform created 1 billion Luna
6 tokens on the blockchain, right?

7 A. Let me clarify. Are you asking about Terra 1 or Terra 2?

8 Q. I'm asking about your demonstrative where you said
9 Terraform blockchain launched April 2019. Do you recall that?

10 A. Yes.

11 Q. And at that time Terraform Labs created 1 billion Luna
12 tokens, right?

13 A. I don't know for sure. That was before I was there

14 Q. And Terraform allocated to itself 400 million of those
15 tokens, right?

16 A. Again, I wasn't there. I don't know that for a fact.

17 Q. And you do know that Terraform sold Luna tokens to
18 investors, right?

19 A. Yes.

20 Q. And when it sold Luna tokens to investors, it did so to
21 United States investors?

22 A. Again, I don't know. I don't think I was at TFL when those
23 token purchases — when those token sale agreements went into
24 place.

25 Q. And Terraform also sold Luna to investors through what's

O43HSec1

Amani - Cross

1 known as crypto asset trading platforms, correct?

2 A. I don't know.

3 MR. CONNOR: If we could pull up Plaintiff's Exhibit
4 325, just for the witness.

5 Q. Mr. Amani, you recognize this document, correct? Without
6 reading it into the record, I'm just asking if you recognize
7 it.

8 A. I kind of recognize it. It looks like — all these legal
9 docs look the same to me.

10 Q. And I could just turn your attention to page 11 with your
11 signature. Do you see that?

12 THE COURT: I'm sorry.

13 A. I'm at 8 right now.

14 THE COURT: Where is the relevant page?

15 MR. CONNOR: Page 11, Mr. Haywood, please.

16 THE COURT: All right. There we are.

17 A. OK. Yeah, I see that.

18 Q. I want to turn your attention to —

19 THE COURT: I'm sorry. Go back to the first page and
20 blow it up, please. OK. Go ahead.

21 Q. And I want to turn your attention to the response to
22 interrogatory No. 19, which is on page 8 of the document. See
23 that?

24 THE COURT: Are you offering this?

25 MR. CONNOR: Your Honor, this is the subject of a

O43HSec1

Amani - Cross

1 stipulation. I understand defense counsel has an objection to
2 this, which is why I'm not particularly offering it right now,
3 but I want to give the witness —

4 THE COURT: Well, are you going to read it or have him
5 read it? At least that portion has to be offered into
6 evidence.

7 MR. CONNOR: Yes, your Honor, we would offer for
8 admission the response to interrogatory No. 19.

9 THE COURT: OK. Any objection?

10 MR. PELLEGRINO: Yes, your Honor. Is it being offered
11 as evidence?

12 THE COURT: An interrogatory answer can be evidence,
13 yes. I'll explain in a minute what it is. But any objection?

14 MR. PELLEGRINO: Yes, your Honor. This is a corporate
15 document, and he's testifying from personal knowledge.

16 THE COURT: Overruled. He signed this.

17 So just so that we're clear, ladies and gentlemen,
18 before a case goes to trial, in addition to depositions,
19 there's something called interrogatories where certain
20 questions can be put to, in this case, Terraform and then they
21 have to provide an answer, and you can consider that as
22 evidence in the case. And in this case, the answers were
23 signed off on by the witness. So it is binding on the
24 defendant, Terraform.

25 Go ahead.

O43HSec1

Amani - Cross

1 MR. PELLEGRINO: Your Honor, if I may, this is one
2 that we stipulated to, so they should show the stipulation.

3 THE COURT: OK.

4 MR. CONNOR: Your Honor, the problem with that is that
5 we read the stipulation into the record, so there's no copy of
6 it. I can just show the witness the words here, which are the
7 exact words of the stipulation.

8 THE COURT: I'll permit that. Go ahead.

9 BY MR. CONNOR:

10 Q. The question — are you at interrogatory No. 19?

11 A. I am. I recognize this document now that we've gotten into
12 the words. I remember doing the interrogatory, yeah. I just
13 couldn't tell from the cover page.

14 MR. CONNOR: May we publish this to the jury, your
15 Honor, interrogatory No. 19?

16 THE COURT: Yes.

17 BY MR. CONNOR:

18 Q. Mr. Amani, it states: Identify the name of all trading
19 platforms through which Terra sold Luna from April 2018 through
20 April — through May 2022. Do you see that?

21 A. I do.

22 Q. And could you please read the response to yourself first.

23 A. Yes.

24 Q. And so just following up on my previous question, Terraform
25 did sell Luna through trading platforms to investors?

O43HSec1

Amani - Cross

1 A. Yeah. I understand what you mean now, yes.

2 Q. I want to make sure the answer to my question is correct.

3 Terraform did sell Luna through crypto asset trading
4 platforms to investors, correct?

5 A. Yes.

6 Q. Thank you.

7 I now want to talk about efforts that Terraform took
8 to make Luna and UST available to investors for purchase. One
9 of the things that Terraform did to do that was to enter into
10 contracts with crypto asset trading platforms so that investors
11 could purchase UST and Luna, correct?

12 A. Can you say that again.

13 Q. Terraform entered into agreements with crypto asset trading
14 platforms to allow those platforms to sell Terraform's crypto
15 assets to investors, right?

16 MR. PATTON: Your Honor, objection. May we have a
17 sidebar on this?

18 THE COURT: OK.

19 (Continued on next page)

20

21

22

23

24

25

O43HSec1

Amani - Cross

1 (At sidebar)

2 MR. PATTON: It very well could be that I'm missing
3 something, but it sounds to me like this whole line of
4 questioning is going to a securities registration issue which
5 is not part of this trial, which your Honor's already ruled on.
6 So my objection is relevance outside of the registration issue.

7 THE COURT: Well, the previous questions were not
8 about that, but is the pending question about that?

9 MR. CONNOR: It's about the "in connection with"
10 requirement of our fraud charges. I think that's what we're
11 trying to —

12 THE COURT: So that's permissible for that purpose.
13 He has to show that these various things that are complained of
14 in the 10b-5 count were in connection with the purchase and
15 sale of securities.

16 MR. PATTON: Understood, your Honor.

17 THE COURT: He's not going to ask the question, were
18 you registered to sell securities?

19 MR. CONNOR: Right.

20 THE COURT: He's not going to ask that question.

21 MR. CONNOR: And, your Honor, if we could raise one
22 other point, which is he has now talked about that they have
23 issued another token called Luna 2.0 to investors, and that
24 re-raises the question about the relevance of the unregistered
25 securities offerings in Luna. They're doing Luna 2.0 —

O43HSec1

Amani - Cross

1 THE COURT: No, I'm keeping that — the jury's got
2 enough to deal with without dealing with that.

3 MR. CONNOR: Thank you, your Honor.

4 (Continued on next page)

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

O43HSec1

Amani - Cross

(In open court; jurors present)

BY MR. CONNOR:

Q. Mr. Amani, apologies. I'm not sure exactly where we left off, but the pending question I had was whether Terraform Labs entered into agreements with crypto asset trading platforms to allow those platforms to sell UST and Luna to investors?

A. You mean — can I clarify?

Q. Yes, please.

A. You mean like an exchange, like Binance?

Q. That's correct.

A. I wanted to make sure we're talking about the same thing. I believe so.

Q. And a crypto asset trading platform or, in your words, an exchange is a place where investors can go to purchase UST and Luna?

A. That's right.

Q. Mr. Amani, I now — this will be my final line of inquiry. I now want to talk about the May 2022 events that I think you talked about on direct examination.

You were working at Terraform Labs in May of 2022, is that right?

A. That's right.

Q. And I think you talked about on direct that Terraform took steps to try to restore the peg in 2022. Do you recall that?

A. Yes.

O43HSec1

Amani - Cross

1 Q. I just want to be clear about something. You personally
2 had no role in trying to restore the peg, right?

3 A. That's right.

4 Q. And in May of 2022, UST's price dropped again from \$1 as it
5 had in May of 2021, right?

6 A. Yes.

7 Q. But this time the price didn't recover?

8 A. That's right.

9 Q. And investors, including investors in the United States,
10 lost billions of dollars, right?

11 A. Investors lost billions of dollars? I don't know. I don't
12 have a breakout by country.

13 Q. You mentioned that you're a very close follower of social
14 media posts on Twitter related to crypto. Do you recall that?

15 A. Yes.

16 Q. And you recall about that time that there was a lot of such
17 posts about the devastating losses that investors had suffered
18 as a result of the collapse of Terraform Labs' UST?

19 A. That's right, yes.

20 Q. But Terraform, on the other hand, continues to operate as a
21 company to this very day, right?

22 A. That's right.

23 Q. And I think you testified that Terraform has now created
24 another token, something it calls Luna 2.0, is that right?

25 A. Yeah, we call it Luna now. But, yeah, it's a second

O43HSec1

Amani - Cross

1 version.

2 Q. And Terraform Labs is to this very day selling that Luna
3 2.0 to investors through liquidity pools, right?

4 MR. PELLEGRINO: Objection.

5 THE COURT: Overruled.

6 A. I don't know if I would characterize it that way. I don't
7 know that putting in a liquidity pool — we are providing
8 liquidity for it.

9 Q. You're providing the Luna to the liquidity pool from which
10 the investor purchases it, right?

11 A. Maybe you can put it that way.

12 Q. Now, you talked a lot about on direct about how much money
13 that Terraform Labs spent to, I think you used the word, defend
14 the peg. Do you recall that?

15 A. Yes.

16 Q. Terraform Labs didn't spend all its money to defend the
17 peg, right?

18 A. It did not.

19 Q. And Terraform Labs currently has over \$150 million in
20 assets, right?

21 A. Yeah, I don't know the exact number, but, yeah, roughly.

22 Q. And you personally, what is your salary?

23 MR. PELLEGRINO: Objection, your Honor.

24 THE COURT: Overruled.

25 MR. PELLEGRINO: May we sidebar?

O43HSec1

Amani - Cross

1 THE COURT: No.

2 A. My salary is 3 million a year.

3 Q. Now, you were in the courtroom when you heard the testimony
4 of Do Kwon read into the record by the reader. Do you recall
5 that?

6 A. Yes.

7 Q. And one of the things that Do Kwon testified to was that in
8 August of 2022, Terraform Labs had assets of 10,000 Bitcoin,
9 right?

10 A. What's the date again?

11 Q. August of 2022.

12 A. I don't remember the specific statement. I remember the
13 10,000 Bitcoin.

14 Q. OK. So it's fair to say those 10,000 Bitcoin were not used
15 to defend the peg because Terraform Labs still had them, right?

16 A. That's right.

17 Q. And 10,000 Bitcoin in August — do you recall what the
18 approximate price of Bitcoin was in August 2022?

19 A. I don't.

20 Q. Now, in addition to the \$150 million in assets that
21 Terraform Labs has, the Luna Foundation Guard also owns
22 hundreds of millions of dollars in crypto assets, right?

23 A. I don't know if that number is correct, but it has millions
24 of dollars in assets. I don't know — I don't know that it's
25 over a hundred million. (Continued on next page)

O43ASEC2

Amani - Redirect

1 BY MR. CONNOR:

2 Q. And so those monies were not used to defend the peg, right?

3 A. No.

4 Q. And those monies, your 150 million, the million that Luna
5 Foundation Guard, none of that money was used to repay
6 investors, right?

7 A. No.

8 Q. No, it was not used?

9 A. No, it was not.

10 MR. CONNOR: No further questions. Thank you.

11 THE COURT: Any redirect?

12 MR. PELLEGRINO: Just one moment, your Honor, please.

13 REDIRECT EXAMINATION

14 BY MR. PELLEGRINO:

15 Q. Mr. Amani, is Terraform Labs currently operating in or out
16 of bankruptcy?

17 A. In bankruptcy.

18 MR. PELLEGRINO: Thank you, your Honor. No further
19 questions.

20 THE COURT: Anything else?

21 MR. CONNOR: No, your Honor.

22 THE COURT: Thank you very much. You may step down.
23 Ladies and gentlemen, we'll give you a short 10-minute break at
24 this time, and then we'll move forward until 3:30 today.

25 (Continued on next page)

O43ASEC2

(In open court; jury not present)

THE COURT: So now let me hear anything anyone further wanted to say about the next witness. The government -- the SEC has moved to exclude that witness as I understand?

MR. CONNOR: That's correct.

MR. CALIFANO: Excuse me, your Honor. That witness was never part of a motion *in limine*. So I guess this is a new motion by the SEC.

THE COURT: Okay. So it's a new motion. So as I understand, the motion is they don't believe he has any personal knowledge of anything relevant to the case. Is that the motion?

MR. CONNOR: Yes, your Honor.

THE COURT: All right.

MR. CALIFANO: Your Honor, Mr. Schum has been a member of the community well before he actually joined TFL. He was one of the validators for the Terraform blockchain. In that position he has direct knowledge of the way the blockchain operated, of the role of that validator, and how governance worked in the community, all of which are very relevant to exactly what we're seeing.

And most importantly, your Honor, Mr. Schum is one of the members of the community that was aware in dealing with all of the issues on the risks of UST and the mint-burn mechanism, which is central to our defense of this case.

O43ASEC2

1 THE COURT: So let me make sure I fully understand the
2 defense on the claims here. The two claims that the jury has
3 to consider are that the defendants intentionally either
4 affirmatively lied or materially misrepresented a material fact
5 of importance to investors in order to obtain or retain money
6 or property in connection with a purchase or sale of
7 securities, or in the section 17, in the purchase or sale of
8 securities.

9 So the defense is that they didn't lie, right?

10 MR. CALIFANO: The defense, your Honor, I want to go
11 back to the claim, part of the claim was a material omission
12 that they omitted the involvement of Jump.

13 THE COURT: Yeah, that's right. That's one of the --
14 although that's coupled to the statement by the company and by
15 Mr. Do Kwon that we have this algorithm that's going to keep
16 everything stable because you can exchange it for Luna, etc.,
17 etc. And when, as I understand the SEC's position on that
18 claim is that when the May 2021 depeg occurred, there was a
19 secret deal with Luna and that's what enabled the peg to go
20 back to a dollar. And that without that, as their expert
21 testified, the peg would not have returned, indeed it would
22 have dropped.

23 So let me make sure I understand where the defense is
24 with respect to that.

25 MR. PATTON: Your Honor, I do think it's important

O43ASEC2

1 when the SEC is making claims about statements that Do Kwon
2 made or Terraform made that are misleading and they've
3 specified those in the pretrial order what those statements
4 were. I think it's extremely important that the jury have the
5 context for those statements to understand whether or not they
6 were in fact misleading.

7 So, for instance, some of the statements that they've
8 alleged are something along the lines of, you know, the
9 protocol worked, take the '21 depeg, and they're saying that's
10 misleading because they were under an obligation to explain
11 that there was actually reserves coming in on secondary markets
12 bolstering the on-chain mint-burn mechanism.

13 THE COURT: No, they're saying more than that.
14 They're saying that that was a manipulation by Do Kwon that he
15 reached out to Jump and made a secret agreement. It's not that
16 Jump on its own made the decision to enter. But rather that it
17 was induced to enter by an arrangement with Do Kwon and
18 Terraform.

19 MR. PATTON: Understood, your Honor. Obviously we
20 dispute those things.

21 THE COURT: Correct. I understand you. But I want to
22 make sure I understand what the defense is. Is the defense,
23 that as we've heard some testimony that suggesting from the
24 defense, that Jump acted on its own? That would be a defense.
25 But I don't see it as a defense that if Mr. Kwon knew that he

O43ASEC2

1 had induced Jump to come in, that his statement, oh, yeah, the
2 protocol is just working just like we said it was, was not
3 materially misleading, although the jury of course will make
4 that ultimate determination.

5 MR. PATTON: I think this goes back to something we
6 talked about towards the beginning of the trial, which is the
7 defense depends on what the claim is about why those statements
8 are misleading. If the claim is that any role by Jump needed
9 to be disclosed, well, that extends beyond, you know, what the
10 SEC claims --

11 THE COURT: No, the claim is, as I understand it, the
12 SEC will correct me if I'm wrong, it is that there had, for
13 that statement, those numerous statements about how the
14 protocol worked and all like that, were misleading, were
15 materially misleading, unless there was disclosed that Jump was
16 solicited through a secret deal to jump in.

17 MR. CALIFANO: Your Honor, taking your point.

18 THE COURT: Yeah.

19 MR. CALIFANO: I want to start back at the statements
20 that the SEC alleges are false.

21 THE COURT: I'm still not -- that's all fine and
22 I'm -- but I do think, gentlemen, you are not answering my
23 question. My question is: What's your defense?

24 MR. CALIFANO: My defense, our defense, your Honor, in
25 the first instance is that the statements that the SEC has

O43ASEC2

1 alleged are false are not false, especially in the context of
2 the other statements and information that was available to the
3 public and in the community at the time those statements were
4 made. Our second part of our defense --

5 THE COURT: All right. Let me just stop on that.

6 So if a person intentionally makes a mis- --
7 especially the CEO, makes a misleading statement to an investor
8 about a material matter, is it your position that the law does
9 not make that illegal under Section 17 or 10b-5, if a
10 reasonable investor who knew everything that was being
11 disclosed to the market would have interpreted that statement
12 differently from what the intent of the -- from what it is on
13 its face. Is that your position?

14 MR. CALIFANO: If, your Honor, intent was frozen and
15 not contested, that might be my position. But that's not our
16 position. We do not believe that that intent exists.

17 THE COURT: Well, I understand that. But I thought
18 you were just saying that -- I've always understood that you
19 had two defenses. One was that the statements were not false
20 or misleading and the second was that they were not about a
21 material matter. But now you're saying something different.
22 If I understood the last comments you made, you're saying that
23 even if they were intentionally made about a material matter,
24 that is still not actionable if an investor who was fully
25 versed in the entire context would have seen that they couldn't

O43ASEC2

1 be taken literally. I don't think the law says that's the
2 defense.

3 MR. CALIFANO: But I don't think that's our position,
4 your Honor.

5 THE COURT: Okay. All right.

6 MR. CALIFANO: Because we would contend that the
7 intent was to make all of the statement and that the complete
8 communication includes other statements made at the same time.
9 So we would --

10 THE COURT: Okay. So statements made by Do Kwon or
11 statements made -- are we talking about the whole mass of
12 statements made by the company?

13 MR. CALIFANO: The statements made by the company and
14 by Do Kwon were made almost simultaneously especially following
15 the May 2021 depeg.

16 THE COURT: All right. And at some point you seem to
17 be suggesting that there was also -- that a reasonable investor
18 would take into account the quotation from a Canadian academic
19 that appeared in a snippet of a *Wall Street Journal* article and
20 even put a question, which I think the objection was sustained.
21 But anyway, did the marketplace know what this professor was
22 saying? That can't be the law.

23 MR. CALIFANO: Well, your Honor, I would say that the
24 Court may not agree with us that that is part of the mix. And
25 I understand that disagreement. But we do have plenty of other

O43ASEC2

1 items coming directly from the company, especially explanations
2 that were given to the community and people who were using
3 these protocols and buying these tokens. So their
4 understanding of those terms, especially in the mix, is very
5 relevant.

6 THE COURT: Is that what the next witness is supposed
7 to testify on?

8 MR. CALIFANO: Yes, that is part of what the next
9 witness is going to testify to, your Honor.

10 THE COURT: And what's he going to say?

11 MR. CALIFANO: The witness is going to say, because
12 the witness was a member of the community for a period of time
13 before the witness joined TFL as part of their communications
14 group. As a member of the community that witness operated a
15 validator. A validator is one of those nodes that validates
16 transactions on the blockchain. The witness was a member of
17 the community both as a validator and as a person who bought
18 and used UST and Luna. The person followed all those
19 discussions that were had both on the governance channel, that
20 person voted and participated in governance, and that person
21 also followed the discussions the company had.

22 THE COURT: Fine. So if he is asked on cross -- I
23 just want to make sure I understand. If he's asked on cross:
24 Did you know that Do Kwon had solicited Jump in a secret deal
25 to enter in a very major way towards restabilizing the peg of

O43ASEC2

1 UST, what's he going to say?

2 MR. CALIFANO: Your Honor, I imagine he would say that
3 he was unaware of that.

4 THE COURT: Okay. Then, if he's then asked would that
5 have been material to you, what's he going to say?

6 MR. CALIFANO: Your Honor, you mean after I object and
7 am overruled?

8 THE COURT: After you've objected and been overruled,
9 right.

10 MR. CALIFANO: I do not know how he would answer
11 that --

12 THE COURT: And I'm glad you anticipated the ruling.

13 MR. CALIFANO: I don't know how that witness would
14 answer the question, your Honor.

15 THE COURT: All right. Well, so let me go back to the
16 SEC since we don't know how the witness would answer that
17 question. Why isn't this witness's testimony at least
18 potentially relevant?

19 MR. CARNEY: Your Honor -- and I'll let Mr. Connor
20 address this witness specifically, but I think some of the
21 points that your Honor raised go to what the SEC's concerns are
22 here about the testimony that's continuously being elicited by
23 defendants. And this goes back to the testimony you heard from
24 Dr. Mizrach yesterday that the SEC's allegations about Jump
25 working to restore the peg had to do with Jump's trading

O43ASEC2

1 off-chain and he focused in on KuCoin and other centralized
2 exchanges. And the allegation is that under the secret
3 agreement, Jump went off-chain, where no one in the public
4 could possibly see --

5 THE COURT: Right. I understand. And that's
6 obviously strong evidence of your position. But what if this
7 witness were to say -- and I forbid, by the way, any discussion
8 between this witness and counsel before he testifies.

9 MR. CALIFANO: Understood.

10 THE COURT: What if this witness says, well, I didn't
11 know that, but even if I had known it, I think it was still
12 within the ballpark of how the protocol as I understood it was
13 to operate. Yes, there may have been some nudging in this
14 case, but the basic idea was that the -- you know, Jump didn't
15 make this investment that you're telling me now for the first
16 time about, says the witness, out of the goodness of its heart,
17 they saw an economic opportunity and that was consistent with a
18 broader context of the protocol.

19 So if he were to say all that, why isn't that
20 relevant?

21 MR. CARNEY: So obviously in response to that, we've
22 never heard the defense make that argument, but we would say --

23 THE COURT: No, but I think that's sort of what he was
24 arguing in general terms before, if I have defense counsel's
25 position correct. That you think in the context of the overall

O43ASEC2

1 disclosure about the protocol, this was not inconsistent with,
2 and I think that's their point. Do I have that wrong, defense
3 counsel?

4 MR. PATTON: No, that's correct, your Honor.

5 THE COURT: Okay.

6 MR. CARNEY: So we would think that's a terrible
7 argument because --

8 THE COURT: Well, that may be. That's not the
9 question I asked.

10 MR. CARNEY: Exactly. But putting that argument
11 aside.

12 THE COURT: Yeah.

13 MR. CARNEY: Our concern is the testimony that the
14 defense has elicited has been designed, maybe not purposefully,
15 but to confuse the jury by putting things out there about
16 govern --

17 THE COURT: Well, I've been worried about that
18 throughout this case, and that is also, I'm still ultimately
19 reserving on rebuttal, and that's the only reason I'm reserving
20 on rebuttal is that very fear. But I think maybe what we
21 should do, before we hear from this witness before the jury, is
22 bring him in and put the questions to him that I just put and
23 see what he says. Because if he says something like in my
24 totally speculative hypothesis, then it seems to me that his
25 testimony is relevant.

O43ASEC2

1 MR. CARNEY: Your Honor, if I could just finish that
2 point.

3 THE COURT: Yeah.

4 MR. CARNEY: They've put in a lot about governance
5 proposals that came out after the depeg, which obviously
6 because the laws of the space-time continuum, could not have
7 affected the depeg before. They've put in a lot of things
8 about what's going on on-chain in Jump's role on-chain being
9 disclosed --

10 THE COURT: I like space-time continuum. You've been
11 watching Oppenheimer obviously.

12 MR. CARNEY: So we think the jury might get confused
13 when they say, oh, they disclosed all this stuff about Jump,
14 but all that stuff about Jump had nothing to do with this
15 off-chain trading, and that's our concern about confusion.

16 THE COURT: All right. Let's bring in the witness and
17 I'll question the witness.

18 MR. CONNOR: Your Honor, the last thing we wanted to
19 raise is the whole opening the door. I mean, if this witness
20 takes the stand, the door is open, and we would like to --

21 THE COURT: The door is open to what?

22 MR. CONNOR: To questioning the witness about Do Kwon,
23 his arrest, I mean, the witness has talked about --

24 THE COURT: No, I'm not sure about that. But let's
25 take it one step at a time. Let's bring in the witness.

O43ASEC2

(Zion Schum sworn)

THE COURT: So, Mr. Schum, you were an investor in UST at the time of the May 2021 depeg?

THE WITNESS: Yes.

THE COURT: And you followed what the company was saying about it?

THE WITNESS: Yes.

THE COURT: Were you ever told by the company that the main reason the depeg was corrected was that the company had entered into a secret agreement with Jump for Jump to put very substantial amounts of money into UST and to do so in a way that cannot easily be detected? Were you ever told that?

THE WITNESS: Not that I recall.

MR. CALIFANO: Your Honor, my apologies. Just for the record, I just want to note an objection from the defense.

THE COURT: Yeah. Yeah. This is -- I'm not saying that in fact happened, I'm just saying that's an allegation.

Okay. But if you had been told that, would that have been important to you in determining what to do with your investment?

THE WITNESS: It depends.

THE COURT: It depends on what?

THE WITNESS: It depends on whether or not Jump would have engaged in using UST Luna mint-burn mechanism without any sort of like extrinsic reward beyond just the economic benefit

O43ASEC2

1 that they gain.

2 THE COURT: So if they had received an extrinsic
3 reward, that would have been important to you?

4 THE WITNESS: If -- well, it depends on whether or not
5 the extrinsic reward -- in my personal view, it depends on
6 whether or not the extrinsic reward that they're getting was
7 them trying to, you know, kind of squeeze that out of, you
8 know, as like a market participant, you know, engaging in kind
9 of like, you know -- essentially trying to like squeeze out
10 extra money from TFL versus --

11 THE COURT: So let me put to you two alternatives, and
12 tell me which one if either would have been important to you.

13 THE WITNESS: Sure.

14 THE COURT: Alternative number one is: Do Kwon goes
15 secretly to Jump and says we want you to spend hundreds of
16 millions restabilizing the peg and we -- it's a good deal for
17 you because now you can make some money out of this, just be
18 sure to do it in a way that no one knows. So he's not offering
19 any bribe in effect, but he's saying you can make a ton, but we
20 don't want anyone to know about it.

21 Would that have been important to you or not?

22 THE WITNESS: Yes.

23 THE COURT: Okay. Now, conversely, supposing he
24 doesn't talk to them at all and they just decide on their own
25 this is a great chance to make a ton of money, so we're going

O43ASEC2

1 to put a ton of money into it. Would that have been important
2 to you?

3 THE WITNESS: In just making a decision as to whether
4 or not I should --

5 THE COURT: Yeah.

6 THE WITNESS: No.

7 THE COURT: No, okay. So you've clarified for me.
8 You can go back to the witness room. We'll call you back in a
9 minute.

10 THE WITNESS: Okay.

11 (Witness excused)

12 THE COURT: So let me ask the SEC, this witness, given
13 the answers he just gave, says in effect if he had known what
14 the SEC says were the facts, it would have been important to
15 him, and if he -- and if those facts are wrong, it would not
16 have been important to him in terms of materiality in the
17 protocol and the disclosures and so forth.

18 So, I mean, now you might want to call him. But why
19 isn't that relevant testimony?

20 MR. CARNEY: Your Honor, the only clarification I
21 would make is that in response to your Honor's question, when
22 you asked about if Jump had done this, the witness assumed that
23 you were talking about going through the mint-burn mechanism
24 online as opposed to -- and that was the witness's assumption.

25 THE COURT: I mean, I just used your formulation of

O43ASEC2

1 offline and so forth. You know, not detectable. You can get
2 into more details obviously in cross. I'm not saying -- given
3 that testimony, I'm not saying that it's irrelevant testimony.
4 Defense counsel may not want to call him, but that's their
5 choice. So I will allow it.

6 MR. CARNEY: Thank you.

7 MR. CALIFANO: So --

8 THE COURT: And all those questions I asked, I'm going
9 to allow the defense to ask, and more questions along that
10 line. So I wasn't quite sure what your objection was, but
11 those questions will be allowed.

12 MR. CALIFANO: I noted our continuing objection for
13 the record, your Honor. I understand that.

14 THE COURT: Okay. Very good.

15 MR. CONNOR: Your Honor, I've been remained by my
16 colleagues to mention one more time, we mentioned it before, on
17 the conviction issue. This witness was at Terraform Labs. He
18 was an employee, and he's quoted the head of communications
19 that he's actively involved, meaning Do Kwon, in the day-to-day
20 operations of the company. There does come a point at which,
21 there does come a point at which --

22 THE COURT: Yes, but we're not there yet. You have
23 certainly warned your adversary to be careful, and they have
24 been so far with respect to the last witness. And but I
25 understand that if they open the door even a crack, you're

O43ASEC2

1 going to want to jump in.

2 All right. Let's take five minutes and then we'll
3 continue.

4 (Recess)

5 THE COURT: Let's bring in the jury and bring in the
6 witness.

7 (Continued on next page)

O43ASEC2

(In open court; jury present)

THE COURT: Let's get the next witness on the stand.

MR. PATTON: Apologies for the delay, your Honor, but I think you'll be pleased with the reason for the delay.

MR. CALIFANO: Your Honor, given the colloquy, the discussion we had when we had the break, the defense is going to move on to another witness.

THE COURT: Very good.

MR. CALIFANO: We have an issue. My apologies. But we do need to deal with one issue because this is a witness on video. This would be of Evgeny Gaevoy, so if I think we can go to sidebar for a moment.

THE COURT: Yes. Okay. The jury was hoping you would say that because we don't want to break tradition here.

(Continued on next page)

O43ASEC2

(At sidebar)

THE COURT: So we're talking about page 65 of Mr. --
is it Mr. or Ms?

MR. CALIFANO: Mr.

THE COURT: Mr. Gaevoy's deposition, lines 5 through
19.

MR. CALIFANO: We're actually going to narrow it, your
Honor, lines 10 to 19.

THE COURT: Yes, because it seems to be clear that 5
through 9 have to be excluded. That, just for the record, 5
was question: Why don't I ask you, in your own words, what was
the goal of the strategy? There was an objection to form. But
the answer was: When you say strategy, which strategy are you
referring to?

Which really was the point of the objection as well,
so all that is excluded.

Okay. Question: I am referring to the "battle plans"
that the article refers to at the bottom of 64, and then at the
top of 65 several steps are listed that Wintermute took during
the February to May 2022 time period.

Answer: Sure. So as for battle plans, I don't
necessarily remember what they implied. As for integration,
that was basically integrating with the Terra blockchain, as it
says in the article.

Now, I excluded that on objection raised by the

O43ASEC2

1 defense, and I put aside the fact that the question was
2 blatantly improper as to form, but no objection to form was
3 raised as to that question. So that objection is waived and
4 wasn't made in what was presented by the SEC.

5 But the first part of the answer is that he doesn't
6 remember it. And I didn't think it was relevant that he
7 doesn't remember. And I also thought there is grave danger
8 here of bringing in under the rubric of his not remembering the
9 hearsay contained in that article.

10 Now, as for the second part of that sentence, I didn't
11 think it was up to the Court to parse through this as to
12 portions of that answer. So I only got as far as the first
13 sentence and didn't reach the second sentence. So I continue
14 to exclude this.

15 MR. CALIFANO: Okay, your Honor. Thank you.

16 MR. CARNEY: Thank you, your Honor.

17 (Continued on next page)
18
19
20
21
22
23
24
25

O43ASEC2

1 MR. CALIFANO: Your Honor, we're prepared with some
2 help from Mr. Aquino to play the video of Mr. Gaevoy.

3 THE COURT: Once again, this is a deposition but it
4 was videotaped so you can see the witness as well as hear what
5 the witness has to say.

6 (Video played)

7 THE COURT: So you do need to tell the jury who this
8 witness is. At the moment, he's an unknown name and unknown
9 person.

10 MR. CALIFANO: My apologies, your Honor.

11 In addition, and I was just reminded, there are four
12 exhibits that are discussed in this testimony. Defendants'
13 Exhibit 51, which is a *Forbes* article. Defendants' Exhibit
14 1034, which has been stipulated into admission, Defendants'
15 Exhibit --

16 THE COURT: Wait a minute. So 1034 is received on
17 consent. This article, though, there may be objection.

18 (Defendant's Exhibit 1034 received in evidence)

19 MR. CARNEY: Objection. Hearsay, your Honor.

20 THE COURT: Yeah, sustained.

21 MR. CALIFANO: Defendants' 1964 is the order from the
22 High Court of Justice King's Bench Division, just directing the
23 witness to testify. And then Defendants' 1961 are the Slack
24 chats to which the witness is testifying, your Honor.

25 THE COURT: Okay. So any objection to the high court

O43ASEC2

1 order?

2 MR. CARNEY: No objection to the high court order,
3 your Honor.

4 THE COURT: Okay. That's received.

5 (Defendant's Exhibit 1964 received in evidence)

6 MR. CARNEY: And to the Slack chats, we would object
7 on hearsay grounds.

8 THE COURT: I think it may turn on -- to the extent I
9 allowed in testimony that's referring to those Slack chats,
10 they are to that extent admissible. But anything else would
11 not be admissible. So you have to -- you'll have to redact it
12 when we present it to the jury so that it's only the portions
13 referred to in the testimony I permitted.

14 MR. CARNEY: Thank you, your Honor.

15 (Defendant's Exhibit 1961 received in evidence)

16 MR. CALIFANO: Just so we're clear, your Honor, during
17 the testimony the portions that are being referred to are shown
18 next to the witness. To the extent we have a document that
19 goes into the jury, only those portions will be provided to the
20 jury.

21 THE COURT: Correct. You got it.

22 MR. CALIFANO: The second thing, your Honor, just to
23 be clear, is that when the article was objected to earlier,
24 that objection had been overruled.

25 THE COURT: I don't recall that. But in any event, in

O43ASEC2

1 this case, the way it was used as reflected in my rulings, was
2 largely for hearsay purposes, and therefore not admissible. To
3 the extent that I allowed a question about a specific sentence
4 in the article, then that sentence can be received.

5 MR. CALIFANO: Understood, your Honor. That wouldn't
6 be considered evidence. That would be considered part of the
7 question.

8 THE COURT: Yes, yes.

9 MR. CALIFANO: That's the only -- I think that's what
10 we're going to do. I just want to make sure we have that.

11 So, your Honor, what we've done, just to make sure
12 that the Court understands, with respect to a question being
13 read, only the portion of the article with respect to that
14 question appears on the screen.

15 THE COURT: That's it.

16 MR. CALIFANO: All right. Thank you, your Honor.

17 THE COURT: Okay. Would you like to identify this
18 mystery witness to the jury, please.

19 MR. CALIFANO: Evgeny Gaevoy is the CEO of the
20 Wintermute Trading Firm and he is testifying obviously to
21 pursuant to court order.

22 THE COURT: Yeah, this occurred in London?

23 MR. CALIFANO: Yes, your Honor.

24 THE COURT: I express my apologies, ladies and
25 gentlemen, that neither you nor I got to go to London for this

O43ASEC2

1 testimony.

2 (Evgeny Gaevoy deposition video played)

3 MR. CARNEY: Can we pause. Can I request a brief
4 sidebar?

5 THE COURT: Okay.

6 MR. CARNEY: My apologies.

7 (Continued on next page)

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

O43ASEC2

(At sidebar)

MR. CARNEY: So, your Honor, coincidentally and unfortunately, both of Terra's depegs happened in May, one in May of 2021, one in May of 2022. They have brought in this testimony from London, on their theory of what caused the 2022 depeg, obviously the SEC's case --

THE COURT: So do you want to just stipulate to say that to the jury so they'll understand? Is that good for the defendants?

MR. CALIFANO: That's fine, your Honor.

THE COURT: Okay. Good. So why don't you mutually inform the jury.

(Continued on next page)

O43ASEC2

1 MR. CALIFANO: Your Honor, just to clarify for the
2 members of the jury what Mr. Gaevoy is talking about is trading
3 with respect to the May 2022 depeg.

4 THE COURT: Right and my understanding is all counsel
5 have agreed that's what he's talking about, not the May 2021.
6 There was the coincidence that May was involved in both depegs,
7 but here he's only talking about the 2022. Okay. Go ahead.

8 (Video played)

9 MR. CARNEY: Your Honor, pause. I'm sorry. I didn't
10 see the last set of lines in the designations on the chart.
11 Page 89.

12 MR. CALIFANO: I think those are your
13 counter-designations on that.

14 MR. CARNEY: Fair enough. I'll take your word.

15 (Video played)

16 MR. CALIFANO: That's the end of the video, your
17 Honor.

18 THE COURT: Very good. Please call your next witness.

19 MR. CALIFANO: Your Honor, the defense will call
20 Mr. Terrance Professor Terrence Hendershott. I have to go get
21 him, your Honor.

22 THE COURT: Okay.

23 MR. CARNEY: Your Honor, could I just note for the
24 record that we were not expecting that professor would be
25 testifying today so --

O43ASEC2

Hendershott - Direct

1 THE COURT: Well, I have a feeling he's going to have
2 more than a half hour on his direct, so we'll have the whole
3 evening to prepare your cross.

4 MR. CARNEY: Thank you.

5 MR. HENKIN: And, your Honor, in an abundance of
6 caution with regard to that, we did send the SEC the
7 demonstratives that we may use earlier today, so they've had
8 them for several hours at this point.

9 THE COURT: Very good.

10 THE DEPUTY CLERK: Please remain standing and raise
11 your right hand.

12 TERRENCE HENDERSHOTT,

13 called as a witness by the Defendants,

14 having been duly sworn, testified as follows:

15 MR. HENKIN: Your Honor, may I?

16 THE COURT: Please.

17 DIRECT EXAMINATION

18 BY MR. HENKIN:

19 Q. Professor Hendershott, are you an expert in this case?

20 A. Yes.

21 Q. What is the field of your expertise?

22 A. I study financial markets in particular an area that's
23 often referred to as market microstructure.

24 Q. Are you being compensated for your work as an expert in
25 this case?

O43ASEC2

Hendershott - Direct

1 A. I am.

2 Q. How much?

3 A. \$1,500 and -- \$1,525 an hour.

4 Q. Is your compensation in any way dependent on the outcome of
5 this case?

6 A. No, it's not.

7 Q. You described your expertise as financial markets. What is
8 a financial market?

9 A. This is where buyers and sellers come together to trade
10 assets, so it is could be stocks, bonds, currencies. The
11 crypto market is a type of financial market.

12 Q. And you also mentioned market microstructure. What is
13 market microstructure?

14 A. Well, it's really about how trading is conducted, how the
15 rules of trading matter, and how trading affect the prices that
16 investors get.

17 Q. Did you prepare a set of demonstratives to assist the jury
18 in connection with your testimony?

19 A. Yes, I did.

20 Q. So we'll get to those demonstratives in a few minutes.
21 But, first, what was your primary assignment in this case?

22 A. My primary assignment was to review and evaluate
23 Dr. Mizrach's opinions.

24 Q. And what did you conclude about Dr. Mizrach's opinions?

25 A. Well, I concluded that his opinion about the Jump trading

O43ASEC2

Hendershott - Direct

1 causing the 2021 repeg is incorrect.

2 Q. And what is the opinion that you just stated based on?

3 A. That's based on my review of the documents and the records
4 in this case and the trading data and Dr. Mizrach's reports.

5 Q. Did you have help preparing the report that you filed in
6 this case?

7 A. Yes, I used a firm.

8 Q. And what firm did you use?

9 A. I use Cornerstone Research.

10 Q. What is Cornerstone Research?

11 A. They're a well-known economic and financial analyst,
12 analysis consulting firm.

13 Q. Is it common practice for experts doing what you did in
14 this case to use a firm like Cornerstone?

15 A. Yes. Most experts use firms. I use them in my other
16 cases. When I worked for the SEC in a case I used a firm like
17 Cornerstone.

18 Q. Before we get into your opinions, let's start by telling
19 the jury a little bit more about yourself.

20 MR. HENKIN: At this point, your Honor, I would like
21 to start moving to the demonstratives. And could we bring up
22 D-1807 slide one, but only for the witness and the Court
23 please.

24 And, your Honor, with your permission I would like to
25 publish this to the jury. I don't know whether there are any

O43ASEC2

Hendershott - Direct

1 objections.

2 THE COURT: That's fine. Ladies and gentlemen, I
3 remind you as I did with respect to the other expert witness,
4 that these demonstratives are just aids to helping you follow
5 his testimony. They're not themselves evidence. Go ahead.

6 MR. HENKIN: May I publish?

7 THE COURT: Yeah.

8 MR. HENKIN: Thank you.

9 Q. So, Professor Hendershott, what education have you
10 received?

11 A. So I got my undergraduate degree at Miami University in
12 Ohio, and then I went on and got my PhD at the business school
13 at Stanford University.

14 Q. And specifically what was the area in which your PhD was
15 awarded?

16 A. Well, the PhD is in business. They have different groups
17 or areas within the business school, and the one I was in is
18 called operations, information. And technology.

19 MR. HENKIN: And can we pull up slide two, please but
20 not publish it yet. And request permission to publish this to
21 the jury.

22 THE COURT: Yeah. As you pull these up, if there's
23 any objection, just say. Otherwise, we'll assume they're okay.

24 MR. CARNEY: Yes, your Honor. I only had a chance to
25 glance at them briefly earlier, but thank you.

O43ASEC2

Hendershott - Direct

1 THE COURT: Okay. All right. You may publish.

2 MR. HENKIN: Thank you, your Honor.

3 BY MR. HENKIN:

4 Q. Professor, let's talk about some of your academic
5 appointments. Prior to 2001, and after getting your PhD, did
6 you work anywhere other than the Berkeley School?

7 A. I worked at the University of Rochester.

8 Q. Okay. And then when did you work at the University of
9 Rochester?

10 A. From 1998 through 2001.

11 Q. Okay. And then please give the jury the background of your
12 work history since then?

13 A. Oh, I started as an assistant professor at the University
14 of California at Berkeley in the business school. Haas is the
15 name of the business school. Then six years later I got
16 promoted to associate professor, and I got tenure. And then
17 after that, I received the Cheryl and Christian Valentine
18 Chair. That was a chair for technology management. And they
19 give you a chair as some sort of a recognition for -- that
20 you're doing well, that you're recognized in the profession.

21 Then I became a full professor, and then -- a couple
22 years later. And I've been on the chair of the group in
23 operations and information technology management at the
24 business school. And then a couple of years after that, I got
25 a chair in banking and finance.

O43ASEC2

Hendershott - Direct

1 Q. So you've been at UC Berkeley Business School at this point
2 for about almost 23 years?

3 A. Yeah, pretty much my whole career.

4 Q. And what do you do as part of -- what do you do as part of
5 being a professor at the Berkeley Business School?

6 A. So I conduct research. I write papers and conduct
7 research. I teach students, and I do some administrative work
8 to help run the school. So I'm the faculty director of an
9 academic program we have that's called the master of financial
10 engineering.

11 Q. Do you teach courses?

12 A. I do.

13 Q. Graduate, undergraduate or both?

14 A. I've taught both. I'm currently just teaching a graduate
15 class because I'm doing some more administrative work. And
16 it's a class that's about -- it's in the masters of financial
17 engineering, and it's teaching them about financial markets,
18 about market making, arbitrage. I teach students who have gone
19 to work for firms that trade crypto and different types of
20 assets.

21 Q. Who oversees the curriculum for the business -- for the
22 Berkeley Business School at this point?

23 A. Oh, well, I oversee it for the masters of financial
24 engineering program.

25 Q. And as part of your work, do you also conduct research and

O43ASEC2

Hendershott - Direct

1 write papers?

2 A. I do.

3 Q. Do you sit on any committees or boards?

4 A. I sit on -- I've done a number of -- I've been on a number
5 of boards and committees.

6 MR. HENKIN: Can we publish, but without for the jury,
7 slide three. Can we put up slide three without publishing it
8 yet. Any objection?

9 MR. CARNEY: No.

10 THE COURT: Your Honor, may we publish to the jury?

11 THE COURT: Yes.

12 MR. HENKIN: Thank you.

13 Q. Professor, are these some of the committees and other
14 positions that you've had?

15 A. Yes, they are.

16 Q. So can you tell the jury what it means to be a visiting
17 economist to the New York Stock Exchange?

18 A. The New York Stock Exchange had a program for a number of
19 years where they had one economist come in and visit with the
20 research department. I lived here in New York for a year and
21 worked at the stock exchange and went onto the trading floor
22 and I got to analyze their trading data. It was a great
23 experience.

24 Q. Did any -- did you write any papers that came out of that
25 work?

O43ASEC2

Hendershott - Direct

1 A. I wrote a whole series of papers based on the data I got
2 from the stock exchange.

3 Q. And what does it mean to be on the NASDAQ Economic Advisory
4 Board?

5 A. Well, it's sort of the a similar thing. So NASDAQ, they
6 formed a board to help advise them from some economists about
7 how they might run their market better or what rules for how
8 trading works would be better for investors.

9 Q. What's the high-frequency trading subcommittee of the
10 technology advisory committee of the CFTC?

11 A. So I did some work for the CFTC, both as a consultant in
12 their office of the chief economist, and I also served on a
13 committee. So that they had a committee of outside people to
14 provide some advice to them, and then I served on the part of
15 that that dealt with high-frequency trading.

16 Q. Is that different from what appears above it, the
17 consultant to the office of the chief economist?

18 A. It is different, but they're both for the same agency.

19 Q. And what did you do as a consultant in the office of the
20 chief economist for the CFTC?

21 A. I talked to the researchers there. I gave presentations.
22 I got access to their data.

23 Q. Did any papers -- did you write any papers as a result of
24 any of these other assignments?

25 A. No, not on the -- not from the CFTC.

O43ASEC2

Hendershott - Direct

1 Q. And what is the Market Surveillance Advisory Group for the
2 Financial Industry Regulatory Authority?

3 A. Well, so FINRA is the self-regulatory organization for the
4 U.S. -- for U.S. financial firms. And they started an advisory
5 group. They wanted to talk to some academics about how they
6 could better surveil their markets and prevent market abuse and
7 market manipulation.

8 Q. And what is the university -- there's a listing at the top
9 of this for the listing of University of California Retirement
10 System. Can you tell the jury about the work that you do in
11 that position?

12 A. Oh, sure. We have a retirement system for the University
13 of California. It's actually ten different universities all in
14 one system. We have about \$100 billion in assets that we need
15 to help pay what we owe our retirees, both now and in the
16 future. And this is a board that reports to the president of
17 the university to provide advice, to make sure that the system
18 is being run well, we're providing the benefits in the best way
19 possible to our members.

20 MR. HENKIN: We can take this down please.

21 Q. Let's talk about publications. Are you yourself a
22 published author?

23 A. Yes.

24 Q. How many academic articles have you published?

25 A. I probably have published about 40, and then I have some

O43ASEC2

Hendershott - Direct

1 working papers, which I hope will get published. It can be a
2 long process. I've written book chapters and things like that.

3 Q. And what have your publications been about?

4 A. Oh, they've been about what we talked about before. Market
5 microstructure. So they're generally almost all of them are
6 about trading, they're trading in different financial markets.
7 And I've always really been interested in how technology
8 effects trading.

9 Q. Do your papers deal with price discovery in any way?

10 A. Price discovery, liquidity, basically how trading relates
11 to the prices people in the markets get.

12 Q. What would be an example of something that you've published
13 related to this case?

14 A. So there was a survey article that I wrote a few years ago,
15 the editor of a journal called *Information Systems Research*.
16 He wanted an -- he wanted a special issue on financial
17 technology. And because I've done some work in this area, he
18 asked me along with some other people to solicit papers and
19 edit them and then we wrote an introduction to that that talked
20 about the research that was being done in a number of different
21 areas related to financial technology. And one area was crypto
22 and blockchain technology.

23 Q. And when was that article published?

24 A. I think it was 2021.

25 Q. Are you an editor for any publications?

O43ASEC2

Hendershott - Direct

1 A. I serve on the editorial board of a number of journals.

2 MR. HENKIN: Can we bring up but not publish for the
3 jury yet slide four, please.

4 Any objection?

5 MR. CARNEY: No objection.

6 MR. HENKIN: Your Honor, may I?

7 THE COURT: Yes.

8 MR. HENKIN: Thank you.

9 Q. Professor Hendershott, are the journals that are shown on
10 the slide that are currently -- that is currently in front of
11 you the ones that you're on the editorial board of?

12 A. They're the ones I'm currently on the editorial board of.
13 I've been on other ones. So the top two are well-known
14 journals in financial economics. *The Journal of Finance*, *The*
15 *Journal of Financial Economics*. The one on the bottom *The*
16 *Journal of Financial Markets* really specializes in trading and
17 financial markets.

18 Q. And you've been on the editorial board of that one since
19 2012?

20 A. Yes.

21 Q. And what other journals have you been on the editorial
22 boards of?

23 A. I was on for information systems research, the journal I
24 just mentioned that I published an article in, management
25 science. So there have been a couple of other journals.

O43ASEC2

Hendershott - Direct

1 Q. How many in total have you been on the editorial board for?

2 A. I'm not sure. Maybe seven.

3 Q. Let's talk about research. Have you conducted research?

4 A. Yes.

5 Q. Just tell the jury a little bit about the research that
6 you've conducted?

7 A. Well, we've talked about it several times. So it's about
8 how technology effects financial markets, how trading works,
9 how trading effects prices, how costly it is to trade.

10 Q. Have you previously testified as an expert witness in other
11 cases?

12 A. Yes.

13 Q. How many times have you been retained as an expert witness
14 by the SEC?

15 A. Three times.

16 Q. Has the SEC reached out to you about serving as an expert
17 in any cases other than the three that you just mentioned?

18 A. Yes. From time to time they'll contact me and we'll talk
19 about the case and, you know, what the facts are. They may
20 send me the complaint and we'll have a discussion. And we're
21 primarily trying to see if I agree with the SEC's view of the
22 case and if I have any conflicts in the case. And if I have
23 conflicts or I don't agree with that, then I don't end up doing
24 the case. Or if they want to use somebody else I won't.

25 Q. Has the SEC reached out to you to ask about any crypto

O43ASEC2

Hendershott - Direct

1 cases?

2 A. Yes.

3 Q. How did Jump -- let's move into some background.

4 How did Jump trade around the May 2021 depeg?

5 A. So Jump did two types of trading around May 2021. So they
6 had their normal market making and arbitrage trading, where
7 they were usually buying in the same amount of UST. And then
8 they also had bought through what they called bookstacker.
9 They built a position there, a long position, so they acquired
10 UST.

11 Q. And are you just going to refer to bookstacker UST as
12 bookstacker?

13 A. Yes, I will. Thank you.

14 Q. Okay. Did market making and arbitrage cause Jump to build
15 a long position?

16 A. No. They were buying in one account and selling in another
17 account in almost the exact same amount.

18 Q. Do you have a demonstrative that illustrates this?

19 A. I do.

20 MR. HENKIN: Can we bring up number five, please, but
21 not publish it.

22 Any objections?

23 MR. CARNEY: No objection.

24 MR. HENKIN: Your Honor, may I?

25 THE COURT: Yes.

O43ASEC2

Hendershott - Direct

1 MR. HENKIN: Thank you.

2 Q. Professor Hendershott, can you explain this demonstrative
3 to the jury?

4 A. Well, so the demonstrative has two lines on it. So along
5 the bottom of it, that's time. So that starts on May 23rd, and
6 then it goes on for a number of days. And then the two lines
7 represent their positions in these two different accounts. The
8 names are given on the right. And you can see the top line,
9 this represents their buying of UST. And so they bought UST
10 steadily over this time period. That line always goes up. And
11 you see the line on the bottom, this is the UST they sold, or
12 they either sold in the market or they burned, they used the
13 mint-burn mechanism for.

14 And you can see, the two lines are basically mirror
15 images of each other. They're pretty much exactly that. So
16 they were buying and selling or buying and selling and burning
17 the same amounts so they weren't acquiring -- whatever they
18 acquired, they also got rid of right around the same time.

19 Q. And was the books -- we can take this down.

20 Was bookstacker different?

21 A. Yes, it was.

22 Q. Do you have -- and was bookstacker how Jump built the long
23 position that the jury has heard about?

24 A. Yes.

25 Q. Do you have a demonstrative that illustrates this?

O43ASEC2

Hendershott - Direct

1 A. Yes, I do.

2 MR. HENKIN: Can we bring up slide six, please.

3 Any objection?

4 MR. CARNEY: No objection.

5 MR. HENKIN: May I, your Honor?

6 THE COURT: Yes.

7 MR. HENKIN: Thank you.

8 Q. Professor, can you explain this slide to the jury, please?

9 A. So this is a similar graph to the one you saw before, but
10 there's only one line on it because there's only one account.
11 But it has the same scale and it goes for the same time period.
12 And you can see the green line just goes up over time. So they
13 were buying and they did not sell over this time period. So
14 they bought this and they held it and they later disposed of
15 it.

16 Q. And that's not shown on this chart because it ends on May
17 26th; is that right?

18 A. That's correct.

19 MR. HENKIN: We can take this down.

20 Q. Did Dr. Mizrach's opinion characterize bookstacker as the
21 primary method by which Jump intervened to restore the peg?

22 A. Yes. He and I agree on that.

23 Q. And when you say you agree on that, does that mean you
24 agree with his opinion?

25 A. I agree that it was the way they acquired the long position

O43ASEC2

Hendershott - Direct

1 as we've been talking about.

2 Q. In your opinion, how should Jump's trading be analyzed if
3 you're trying to understand whether Jump was responsible for
4 causing the repeg?

5 A. So you should focus, right -- I had just showed two
6 different graphs. So there was one that was market making and
7 arbitrage, which is what they did around the depeg and which
8 they did at other times. And then there was bookstacker, which
9 did something different, which is not something they normally
10 did in terms of building a long position. So if you're looking
11 what Jump did that was unusual, it should be about bookstacker.
12 So you should focus on that.

13 Q. Professor, it's Dr. Mizrach's opinion that Jump's trading
14 was the reason that the price of UST returned to a dollar; do
15 you agree?

16 A. No, I don't.

17 Q. Can you explain a little bit more about why you disagree?

18 A. Well, I don't agree because, you know, they were just
19 buying over time and the price of UST sometimes, it was going
20 up before they started to buy, so it was buying before they
21 bought. Sometimes it went down while they were buying. So
22 there's really just not a lot of evidence to directly show that
23 it was the bookstacker buying that caused the repeg. And then
24 I have a whole variety of criticisms of his model that tries to
25 do that.

O43ASEC2

Hendershott - Direct

1 MR. HENKIN: And can we bring up slide seven, please,
2 but not yet publish it.

3 Any objections?

4 MR. CARNEY: No objection.

5 MR. HENKIN: May I, your Honor?

6 THE COURT: Yeah.

7 MR. HENKIN: Thank you.

8 Q. Professor, does this slide summarize the reasons that you
9 disagree with Professor Mizrach?

10 A. Yes, this summarizes a number of them.

11 Q. Is this the entirety? Are these all the reasons you
12 disagree with Professor Mizrach?

13 A. There are more details, especially on part D. But the
14 first one, as I already mentioned, that they -- times -- prices
15 had already increased. So it's not that all of UST's price
16 increase was attributable to bookstacker. It was a small
17 fraction of all the buying in the market. They were largely
18 passive, which we'll talk about later. And trading passively
19 has less of a price impact, and then we'll talk more later
20 about the errors that caused him to overstate what the price
21 impact of Jump's trading was.

22 Q. And for each of the opinions that are A, B, C -- each of
23 the descriptions that are stated here, A, B, C, and D, can you
24 explain to the jury what your opinions relating to these are
25 based on?

O43ASEC2

Hendershott - Direct

1 A. So my opinions are based on, you know, all of my
2 experience. And I've analyzed trading and prices in a whole
3 variety of markets. So it's based on my academic training, my
4 experience in terms of doing this both for my academic
5 publications and for -- in some of my consulting I do.

6 THE COURT: We need to find time in the next minute or
7 two to let the jury go for the day, so find a good spot.

8 MR. HENKIN: I think this is that time, your Honor.

9 THE COURT: Yeah. Okay.

10 So, ladies and gentlemen, tomorrow we're back on
11 normal schedule. Starting at 9:30 and going to 3:30, so we'll
12 see you tomorrow morning. Stay dry as best you can.

13 You can step down. We'll see you tomorrow morning.

14 MR. HENKIN: Your Honor, would you like Professor
15 Hendershott to leave the courtroom?

16 THE COURT: Yes.

17 (Continued on next page)

O43ASEC2

Hendershott - Direct

1 (In open court; jury not present)

2 THE COURT: Please be seated.

3 So this is just a ballpark, not binding, but
4 approximately how much more do you have on direct?

5 MR. HENKIN: It's probably around an hour, your Honor.

6 THE COURT: Okay. And who if anyone do you have
7 after?

8 MR. CALIFANO: Your Honor, we have one, maybe two
9 custodians of records, which we are going to try to work out an
10 agreement with the SEC on. One of them had a family emergency
11 and we have a system, if we can't reach agreement with the SEC.
12 To have him testify briefly in the morning on video, but we're
13 going to try to avoid that.

14 THE COURT: Anyone else?

15 MR. CALIFANO: Other than those two, I do not believe
16 so, your Honor.

17 THE COURT: So it sounds like you will rest tomorrow.
18 And it sounds like we might even be able to have the charging
19 conference before 3:30. I need to leave at 3:30 for teaching.
20 If not, we'll have to have it in the evening and then we'll
21 have summations on Friday. And I will think one last time
22 about the rebuttal issue, but at least as of now I'm again
23 still leaning towards not allowing rebuttal.

24 So anything else we need to take up today?

25 MS. CUELLAR: Briefly on the jury instructions, your

O43ASEC2

Hendershott - Direct

1 Honor.

2 THE COURT: Yes.

3 MS. CUELLAR: Your Honor has during the trial provided
4 real time instructions to the jury, and one included on the
5 SEC's whistleblower program. We wondered if we might use your
6 instruction as inspiration to draft a whistleblower instruction
7 tonight.

8 THE COURT: Sure. And then actually there's something
9 else you might want to -- both sides might want to do tonight.
10 And that's an instruction on a proposed instruction on the
11 witnesses who invoke the 5th.

12 Now, I looked at the definitive treatise, *Sand, et al*,
13 and I'm very fond of "al." And it's quite short. Maybe too
14 short. I think maybe there has to be a slight explanation
15 distinguishing some of those witnesses by their position. But
16 in any event, take a look at it. And if you want me to
17 consider an instruction on that other than beyond the *Sand*
18 instruction, get that to me by 8:00 tonight.

19 Anything else?

20 MR. PELLEGRINO: Just two very brief housekeeping
21 measures, your Honor. One is, I think we're in agreement on
22 this. Yesterday Mr. Henkin put in a document. I think the
23 transcript referenced it as D-1260. And I think the parties
24 agree that it should be D-1262, and I think that's just a
25 transcription --

O43ASEC2

Hendershott - Direct

1 THE COURT: Okay.

2 MR. PELLEGRINO: I see some nodding, so it sounds like
3 that's not controversial.

4 THE COURT: Good.

5 MR. PELLEGRINO: And as we previously discussed, we
6 can reconcile -- actually we discovered this because we are
7 reconciling the exhibits --

8 THE COURT: We will need to give to the jury when they
9 begin their deliberations on Friday the -- did I say summations
10 on Thursday? I meant Friday. We will need the index of all
11 exhibits. So be sure to coordinate between the two of you, and
12 also the hard copies to send into the jury room.

13 MR. PELLEGRINO: Great. And then, your Honor, the
14 other thing was earlier in the trial I had mentioned we wanted
15 to discuss the contours of the stipulation. This is on 258B.
16 That relates to Mr. Kanav's phone, this was that scrolling
17 video. So that's already come in in evidence. We're not
18 objecting. Part of the stipulation I wanted to inform the
19 Court about is that the parties agreed that because it's in
20 evidence, either side could do a pull out from it. You've
21 already seen one such example, that was 258A, which was the
22 still image. We may have some or not, but wanted to make that
23 clear because in the past sometimes the Court was not aware of
24 the contours of the parties' agreement.

25 THE COURT: Okay. Thank you very much.

O43ASEC2

Hendershott - Direct

1 MR. PELLEGRINO: Thank you, your Honor.

2 THE COURT: Okay. We'll see you all tomorrow. Why
3 don't we say, you know, inevitably something will occur to you
4 overnight, so why don't we say 9:15 tomorrow.

5 MR. PELLEGRINO: Don't encourage them, your Honor.

6 (Adjourned to April 3, 2024, at 9:15 a.m.)
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX OF EXAMINATION

Examination of: Page

CHRIS AMANI

Direct By Mr. Pellegrino1444

Cross By Mr. Connor1469

Redirect By Mr. Pellegrino1492

TERRENCE HENDERSHOTT

Direct By Mr. Henkin1518

DEFENDANT EXHIBITS

Exhibit No. Received

10341512

19641513

19611513